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Papers Relating to the
Foreign Relations
of the
United States
1927

(In Three Volumes)

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Mar. 7 (448)	<p><i>To the Minister in China</i></p> <p>Instructions to keep Department advised of any progressive relinquishment by American missionary organizations to Chinese citizens of control over such organizations.</p>	83
Mar. 8 (200)	<p><i>From the Minister in China (tel.)</i></p> <p>Suggestion that Admiral Williams be instructed to cooperate with his foreign colleagues concerning the prevention of factions' naval fighting on the Whangpoo only to the extent of protecting American lives and property, and that Minister be authorized to adopt a similar attitude.</p>	84
Mar. 9 (84)	<p><i>To the Minister in China (tel.)</i></p> <p>Navy Department's authorization to Admiral Williams to exercise his personal judgment in accordance with instructions repeated in State Department's telegram No. 72 of February 25; State Department's authorization to Minister to use own discretion to decide with Admiral Williams on the protective measures necessary at Shanghai and on the Whangpoo.</p>	85
Mar. 10 (207)	<p><i>From the Minister in China (tel.)</i></p> <p>From Nanking, March 9: Disorder and antiforeign riot at Wuhu following arrival of Cantonese troops; removal of foreigners to hulks for safety; request to consul general at Hankow that protest be lodged with Minister for Foreign Affairs.</p> <p>Minister's instructions to consul general at Hankow to lodge protest and report results.</p>	85

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Mar. 31 (311)	<i>From the Minister in China (tel.)</i> To the commander in chief: Recommendation that naval vessel be dispatched to Tientsin, in view of increasingly dangerous situation.	100
Undated [Rec'd Apr 2] (0002- 2345)	<i>From the Commander in Chief of the Asiatic Fleet to the Office of Naval Operations, Department of the Navy (tel.)</i> Recommendations for the evacuation of Americans and removal of Legation to Tientsin; plans for the use of the marines due at Shanghai April 28, and suggestions as to additional Army and Marine reinforcements.	100
Apr. 4 (123)	<i>To the Minister in China (tel.)</i> Inquiry whether Tientsin situation will be satisfactorily provided for by the arrival of marines about April 28 and the holding of a regiment in the Philippines available for use at Tientsin within 7 days, availability of troops on the Pacific Coast; approval of plans for evacuation to Tientsin; request for details regarding foreign reinforcements.	101
Apr. 5	<i>From the Chief of Staff of the War Department General Staff to the Acting Secretary of War</i> Estimate of the situation in China and detailed information as to troops available for possible dispatch to China; belief that by refraining from interfering with Chinese leaders and their forces, no serious menace will exist to American nationals; estimate of American share in possible combined expedition by the foreign powers.	102
Apr. 6 (359)	<i>From the Minister in China (tel.)</i> Recommendation for immediate dispatch of Philippine brigade to Tientsin, diversion to Tientsin of marines due at Shanghai April 28, furnishing to Army commandant of the reinforcements requested, as well as airplane detachment, starting of a division to the Philippines ready for call to Peking, and the putting into operation of remainder of "plan yellow."	104
Apr. 6 (364)	<i>From the Minister in China (tel.)</i> Information that Japanese plan to defend their concession at Hankow and have a small naval force there.	105
Apr. 8 (388)	<i>From the Minister in China (tel.)</i> Recommendation to the respective Ministers by the foreign commandants at Tientsin conference, April 6, that garrisons in North China be increased to 25,000 men; American Minister's concurrence.	106
Apr. 10 (398)	<i>From the Minister in China (tel.)</i> Identical statement by representatives of the foreign powers, urging their governments to adopt measures to guarantee security of foreign community at Peking and Tientsin and assure freedom of communication between Peking and the sea.	106
Apr. 12 (146)	<i>To the Minister in China (tel.)</i> Opinion that preparations should be made to remove Legation from Peking to Tientsin, at Minister's discretion as to time; unwillingness to send large force of land troops to the Philippines, to be held there for use in China; willingness to send more marines to Tientsin if powers desire to hold it temporarily as a place of safety for concentration of foreigners; instructions not to take initiative in regard to holding of Tientsin.	107

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1927 Apr. 14 (262)	<i>From the British Ambassador</i> Intention to evacuate both Peking and Tientsin, if necessary, unless effective international cooperation for defense can be secured; request for U. S. views regarding present situation at Peking and Tientsin and the measures which should be taken to meet it.	108
Apr. 20	<i>Memorandum by the Secretary of State</i> Conversation with the British Ambassador, in which the Secretary stated U. S. disinclination to send troops to Peking and Tientsin but willingness to send additional marines to protect Legation and nationals against mob violence; consideration by Americans, British, and Japanese of advisability of evacuating Peking and Tientsin rather than going to the loss of life and expense of defending both cities.	109
Apr. 22 (473)	<i>From the Minister in China (tel.)</i> Agreement with British view that arrangements for evacuation of Peking and Tientsin will have to be made unless effective international cooperation can be secured; political and military developments which have relieved pressure for a decision respecting Peking; opinion that if withdrawal from Peking becomes necessary, all American diplomatic and consular officers must be withdrawn and relations broken off.	110
Undated [Rec'd Apr. 23]	<i>From the Consul General at Hankow (tel.)</i> To the Legation: Discussion with Chen concerning the chaotic state of business in Hankow and the increase of American naval strength there.	112
Apr. 26	<i>To the British Ambassador</i> Reply to British note of April 14, giving figures as to available American forces and expressing opinion that in event of grave danger evacuation of Peking and Tientsin would be preferable to the expense and loss of life necessary to maintain Legation and nationals by force at Peking and Tientsin.	113
Apr. 26	<i>From the Consul General at Hankow (tel.)</i> Statement by Chen (text printed) reporting that he outlined to American businessmen, April 23, the measures Nationalist Government is taking to restore conditions for the conduct of foreign business and trade. (Legation informed.)	115
Apr. 26 (188)	<i>To the Minister in China (tel.)</i> Information as to the American forces available in China and the Philippines, disinclination of both American and Japanese Governments to send more troops, and authorization to convey this information to colleagues. Inability of Department to understand the necessity for withdrawing all American diplomatic and consular officers if Legation is evacuated. (Instructions to repeat to commander in chief.) (Footnote: Information that Minister read the portion authorized to his colleagues on April 29.)	116
Apr. 26	<i>From the Consul at Tientsin (tel.)</i> Information that British negotiations were concluded April 22 for the purpose of placing the British concession area in Tientsin under joint control by British, Chinese, and Americans.	117

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1927 Apr. 27 (190)	<i>To the Minister in China (tel.)</i> Information that Department was hitherto unaware of plan for joint British-Chinese-American control of British Concession at Tientsin; instructions to advise consul at Tientsin that U. S. Government has no desire to interest itself in the matter.	118
Apr. 27 (192)	<i>To the Minister in China (tel.)</i> Extracts from speech by the President, April 25 (text printed), with reference to the Chinese situation, including the Nanking incident, and general statement of American policy toward China.	118
Apr. 30 (507)	<i>From the Minister in China (tel.)</i> Information from British Minister that negotiations concerning British Concession at Tientsin were of a purely preliminary character and that it had been suggested that an American serve on the municipal council; American Minister's statement to British Minister of U. S. preference to stand aloof from question; assumption that the matter is now disposed of. (Footnote: History of "American Concession" at Tientsin.)	119
May 1 (1029)	<i>From the Minister in China</i> Suggestion that claims for losses due to looting by Nationalist troops be presented to the local authorities concerned rather than to the Peking regime.	120
May 18 (569)	<i>From the Minister in China (tel.)</i> Statement by the foreign military attachés to the heads of their delegations (substance printed), outlining military contingencies which would constitute emergencies requiring reinforcement of foreign forces in North China in case the powers decide on such a policy.	122
May 21 (576)	<i>From the Minister in China (tel.)</i> From Nanking, May 13: Suggestion that protest be lodged against recent firing upon passing American naval vessels by Nationalist soldiers. To Nanking, May 21: Opinion that filing protest would be ineffective without intention to back it up, and that matter had best be left to the discretion of naval authorities under their existing instructions.	122
May 28	<i>From the Consul General at Hankow (tel.)</i> Firing upon U. S. S. <i>Pigeon</i> by Southern troops near Chenglingki; information to the Legation.	123
May 28 (236)	<i>To the Minister in China (tel.)</i> Statement by the Japanese Ambassador (text printed), explaining that his Government has decided to dispatch land forces to Tsingtao as a precautionary measure and that the troops will be immediately withdrawn upon the removal of danger.	123
May 31 (601)	<i>From the Minister in China (tel.)</i> British intention to participate in defending Peking-Tientsin area in view of changed Japanese attitude; opinion that altered Japanese attitude removes the need for considering removal of the Legation from Peking; recommendation that the 1,700 marines in Shanghai be dispatched to Tientsin, and request to commander in chief.	124

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1927 June 2 (452)	<i>From the American Legation to the Chinese Ministry of Foreign Affairs</i> Advice that American reinforcements have been dispatched to Tientsin to protect American lives and property because of recent events in South China, and that they will be withdrawn as soon as no longer required.	126
June 2 (608)	<i>From the Minister in China (tel.)</i> To Shanghai: Instructions to advise Nationalist Foreign Minister at Nanking that reinforcements to the American forces in North China are for the protection of American life and that they will be withdrawn as soon as no longer required.	127
June 3 (243)	<i>To the Minister in China (tel.)</i> For Admiral Williams: Request for opinion whether the military situation makes necessary the immediate removal of Legation from Peking, and whether removal should be to Tientsin or to Shanghai.	127
June 3 (615)	<i>From the Minister in China (tel.)</i> British advice, in view of possible disturbances and changes in regime at Peking due to Nationalist military successes, that British nationals living outside Legation Quarter withdraw from Peking; Minister's consideration of making similar suggestion to American nationals.	128
June 3 (244)	<i>To the Minister in China (tel.)</i> Desire for all possible information regarding justification for withdrawal from Peking and comment on the effect upon Chinese of such withdrawal; approval of warning to Americans along lines of British warning, but inability to see reason for such action in view of probable evacuation.	129
June 7	<i>From the Chinese Ministry of Foreign Affairs to the American Legation</i> Protest against the dispatch of additional forces to North China on grounds that such action is unwarranted by existing situation and is also contrary to the protocol of 1901.	130
June 7 (623)	<i>From the Minister in China (tel.)</i> From Admiral Williams: Opinion that any decision for the removal of Legation from Peking must be made by the Minister, that the military situation is threatening, and that any removal of Legation would be preferably to Tientsin. Information that Minister has requested additional details from Admiral Williams.	131
June 8 (626)	<i>From the Minister in China (tel.)</i> Opinion that withdrawal of Legation would have far reaching, disastrous effects on American position in China; information that, in compliance with Department's wishes, unobtrusive steps are being taken with a view to possible removal of the Legation.	132
June 8 (627)	<i>From the Minister in China (tel.)</i> Belief that the Chinese protest against the reinforcements at Tientsin reaffirms the validity of the protocol.	133

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1927 June 14 (459)	<i>From the American Legation to the Chinese Ministry of Foreign Affairs</i> Reply to Chinese protest, stating that the reinforcements are considered necessary, under the existing circumstances, to carry out the provisions of the protocol.	133
June 18 (659)	<i>From the Minister in China (tel.)</i> Recommendations to Admiral Williams, after conferences with U. S. Army and Marine commandants, that the marines should not cooperate in any program to reassert certain of the protocol rights now in abeyance, that existing conditions do not necessitate the withdrawal of the Legation, and that the additional Marine reinforcements at Shanghai be sent to Tientsin to insure open communication between Peking and the sea.	134
June 21	<i>To President Coolidge</i> Transmittal of copy of Minister's telegram No. 659 of June 18; concurrence in opinion that the United States should not participate in any action to reassert the protocol rights in their entirety.	137
June 23	<i>From President Coolidge</i> Approval of the Minister's suggestions, subject to the Secretary's judgment.	138
June 25 (671)	<i>From the Minister in China (tel.)</i> From Foochow, June 23: Request for dispatch of U. S. S. <i>Asheville</i> to Foochow because of threatened antforeign disturbances. (Repeated to commander in chief, expressing approval of the request.)	138
June 27 (575)	<i>To the Minister in China</i> Approval of procedure for submitting to local authorities claims for losses sustained at the hands of Nationalist soldiers.	138
July 26 (758)	<i>From the Minister in China (tel.)</i> Desire for a definite statement by Department as to U. S. attitude toward the protection of American property rights in China.	139
July 28 (298)	<i>To the Minister in China (tel.)</i> Disposition of the U. S. Government to extend military protection to American property wherever practicable, but inability to guarantee immunity for property rights, and possibility that claims for damages may have to be presented.	139
July 28 (603)	<i>To the Minister in China</i> Instructions that consular officers should file official protest in every case of violation of American property rights, unless it appears that some other course would result in greater actual benefit to the injured party.	140
Sept. 8 (862)	<i>From the Chargé in China (tel.)</i> Foreign Ministry's note of September 6 (text printed), asserting that conditions in North China are tranquil and do not necessitate American reinforcements at Tientsin, which it requests be withdrawn.	141

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1927 Sept. 10 (341)	<i>To the Chargé in China (tel.)</i> Instructions merely to send a third-person note of acknowledgment stating that the Chinese note has been referred to the U. S. Government.	143
Sept. 15	<i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Conversation in which the Secretary assured the Chinese Minister that there had been no change in the American policy toward China and advised that the question of American forces in China was under consideration.	143
Nov. 21 (1016)	<i>From the Chargé in China (tel.)</i> From the commander in chief: Report that a small disturbance occurred at Yeungkong, Kwangtung, on November 18, but that the Presbyterian mission was not attacked and that all Americans were safe.	145
Dec. 30	<i>To Mr. William B. Tower, Recording Secretary, Board of Foreign Missions of the Methodist Episcopal Church</i> Advice that Department accedes to Board's request that no action be taken toward presenting claims against China on behalf of the Board without previous consultation with the Board; reservation by the U. S. Government of substantive rights to enter protests against the destruction of mission property and to include a further reservation of its right to file claims therefor.	145

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1927 Mar. 24 (244)	<i>From the Minister in China (tel.)</i> From Nanking: Evacuation of 175 women and children from Nanking, March 23; entrance of Cantonese troops into the city; establishment at consulate of a small naval guard.	146
Mar. 25 (255)	<i>From the Minister in China (tel.)</i> Telegrams from Yangtze Patrol commander and commander in chief, U. S. Asiatic fleet (texts printed), describing plight of foreigners in Nanking during the disturbances of March 23-25 and action of American and British naval forces to effect their rescue. Minister's instructions to consuls in Nationalist territory to urge withdrawal of Americans, in view of inability or unwillingness of Nationalists to protect foreign lives.	146
Mar. 25 (256)	<i>From the Minister in China (tel.)</i> To Hankow: Instructions to protest to Chen, Nationalist Foreign Minister at Hankow, against the attacks upon and killing of American citizens by Nationalist forces at Nanking, and to emphasize that he is expected to afford relief for the Americans still remaining in Nanking.	148

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Mar. 26 (264)	<i>From the Minister in China (tel.)</i> Résumé of latest naval reports regarding Nanking: Loss of one American life, evacuation of foreigners, Consul Davis on board <i>Isabel</i> , looting and burning of American homes and missions, and destruction of official and personal property in American consulate.	149
Mar. 27 (266)	<i>From the Minister in China (tel.)</i> Substance of telegram from Consul Davis, March 26: Evacuation of Americans to Shanghai; evidence that outrages were organized and prearranged; conviction that outrages will be repeated elsewhere and that foreigners will be forced to leave Yangtze Valley unless strong steps are taken at Nanking.	150
Mar. 28 (270)	<i>From the Minister in China (tel.)</i> From Hankow, March 26: Chen's regret for loss of American life, regardless of whether the acts were committed by Nationalist or Northern troops, and his intention to issue statement when the facts have been established.	150
Mar. 28 (272)	<i>From the Minister in China (tel.)</i> From Nanking, March 27: Evidence that the outrages were worse than at first realized; suggestion that Americans withdraw from Nationalist territory and that drastic action be taken to prevent similar occurrences elsewhere.	151
Mar. 28	<i>From the Consul at Nanking</i> Official report of the outrages at Nanking.	151
Mar. 28 (41)	<i>From the Ambassador in Japan (tel.)</i> Information from Foreign Minister that his Government has not changed its policy toward China as a result of the Nanking incident, and that it does not consider the sending of troops to China necessary or advisable.	164
Mar. 29 (275)	<i>From the Minister in China (tel.)</i> Concurrence of American and British Ministers in Japanese Minister's view that satisfactory, prompt action for punishment of those responsible for the Nanking outrages is most likely from Chiang Kai-shek rather than from Chen, and recommendation to their Governments of terms to be presented (text printed); belief that Americans in Nationalist territory should withdraw to places of safety.	164
Mar. 29 (285)	<i>From the Minister in China (tel.)</i> From Nanking, March 28: Additional proof that the outrages were planned; conclusion that the American policy of conciliation toward the Nationalist Government has failed and that unless a strong attitude is taken promptly all foreign lives and property in China will remain in increasing jeopardy.	168
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Mar. 31 (303)	<i>From the Minister in China (tel.)</i> From Patrol commander, March 30: Advice that while conditions at Nanking are becoming more normal, truculence and arrogance of Nationalists toward foreigners are increasing daily. From Nanking, March 30: Belief that the unfavorable developments have been caused by lack of definite action since March 25, and suggestion that demands be presented immediately, reserving the right to take whatever action deemed necessary in case of noncompliance.	169
Mar. 31 (111)	<i>To the Minister in China (tel.)</i> Request to commander in chief for advice and comment on the action proposed in Minister's telegram No. 275, March 29; doubt that an ultimatum would be desirable at the present time but supposition that formal demand for reparation and apology should be made either jointly or alone; request for information concerning a decision by the other powers; approval of warning to Americans to withdraw from danger zones.	170
Apr. 1 (312)	<i>From the Minister in China (tel.)</i> Japanese Government's instructions to its Minister (text printed) approving the terms to be presented to Chiang, except for the specification of a time limit for compliance.	171
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Apr. 1 (318)	<i>From the Minister in China (tel.)</i> Request for immediate instructions concerning attitude of the American Government; further explanation of need to be prepared to enforce compliance if powers make demands for apology and reparation; opinion that only alternatives are either to participate promptly and wholeheartedly in joint action or to pursue an independent course.	173
Apr. 2	<i>From the British Embassy</i> Hope that the American Government will cooperate wholeheartedly in defending common interests in China.	174
Apr. 2 (117)	<i>To the Minister in China (tel.)</i> Authorization, if Minister considers immediate action essential, to instruct consul at Shanghai to join the other interested consuls general in a joint or identic note to Chiang; instructions as to content of note and insistence that it contain nothing in the nature of an ultimatum fixing a time limit.	175

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Apr. 2 (118)	<i>To the Minister in China (tel.)</i> Outline of the demands Minister is authorized to present to Chiang and Chen (text printed), provided the other interested powers join; instructions to inform Chiang at the time of presentation of the demands that the powers will be compelled to take appropriate measures unless he demonstrates intention to comply promptly; reservation by American Government of opinion with respect to sanctions in case their use becomes necessary.	176
Apr. 2	<i>From the Consul General at Hankow (tel.)</i> Warning by Chen that any note must be addressed to him as Nationalist Foreign Minister and must not be sent to any other government purporting to represent the Chinese; consul general's view that responsibility may appropriately be placed solely on the Nationalist Government, and that note may be worded so as not to denote any act of recognition.	177
Apr. 4 (0003-2355)	<i>From the Commander in Chief of the Asiatic Fleet to the Office of Naval Operations, Department of the Navy (tel.)</i> Approval of demands and ultimatum to Chiang and the Cantonese Government and of cooperative action by the powers; outline of specific military measures which might be taken if the demands should be rejected.	178
Apr. 4	<i>Memorandum by the Secretary of State</i> Advice to the British Ambassador, April 2, of authorization to the American Minister to join with the other powers in making demands, omitting any ultimatum with a time limit.	179
Apr. 5 (225)	<i>From the British Ambassador</i> Acceptance by the British Government of the demands in the form now recommended by the Ministers, except for desire that presentation be made to Chen, with a copy to Chiang; concurrence in omission of time limit on the understanding that the other powers accept in principle the application of sanctions in case of noncompliance; suggestion that the various naval authorities in China formulate a plan for sanctions; hope that American Minister may be instructed to proceed.	179
Apr. 5 (127)	<i>To the Minister in China (tel.)</i> Instructions to emphasize that the American Government is under no obligation to use sanctions and is not ready as yet to confer on the subject.	181
Apr. 5 (351)	<i>From the Minister in China (tel.)</i> Acceptance by the powers of minor change in demands at Japanese request; delay occasioned by Japanese desire to make effort through representative at Shanghai to induce Chiang to take the initiative in offering a settlement.	181

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Apr. 6	<i>Memorandum by the Secretary of State</i> Conversation in which the Secretary informed the British Chargé that the American Government was under no obligation to endorse sanctions and at present was not in favor of applying them. (Footnote: Information that the American Minister in China was advised of this conversation in telegram No. 134, April 7.)	182
Apr. 6	<i>Memorandum by the Under Secretary of State</i> Conversation in which the Japanese Ambassador advised the Secretary of State of his belief that his Government was entirely in accord with the U. S. view that no sanctions should be agreed to or applied at the present time.	183
Apr. 7	<i>To the British Ambassador</i> Inability to accept in principle the application of sanctions or to confer on the question.	184
Apr. 9 (247)	<i>From the British Ambassador</i> Willingness to waive insistence on prior acceptance in principle of the application of sanctions, but hope that the American naval authorities in China will be authorized to join in examining the question.	185
Apr. 9 (392)	<i>From the Minister in China (tel.)</i> To Hankow and Shanghai: Instructions to join colleagues in a simultaneous presentation of the demands on April 11. Public statement to be issued at the same time (text printed). To Shanghai: Authorization to present the demands to Chiang's local representative, General Pei, if reports of Chiang's departure for Nanking are correct.	186
Apr. 11 (399)	<i>From the Minister in China (tel.)</i> From Hankow, April 10: Chen's refusal to receive consuls general for joint presentation of identic notes, and their plan to go separately at half-hour intervals. To Hankow, April 10: Instructions to the various representatives at Hankow from their Ministers to present demands in the form of collective note to be handed to Chen by the senior of the consuls general. Information that the Shanghai consuls are being instructed to present to General Pei identic notes communicating the text of the revised collective note to Chen.	188
Apr. 11 (405)	<i>From the Minister in China (tel.)</i> From Shanghai, April 9: Departure of Chiang for Nanking the morning of April 9.	188
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Apr. 11	<i>From the Consul General at Hankow (tel.)</i> Information that identic notes were presented to Chen practically simultaneously by the consuls general.	189
Apr. 11	<i>From the Consul General at Hankow to the Minister for Foreign Affairs of the Nationalist Government</i> American note on the Nanking outrages.	189

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Apr. 12 (422)	<i>From the Minister in China (tel.)</i> Explanation that Chen had refused to receive a joint note, but that he had been persuaded to receive the identic notes.	190
Apr. 14 (263)	<i>From the British Ambassador</i> British Government's instructions to its Minister in China to secure agreement among the other Ministers on the acceptability or otherwise of Cantonese reply to the identic notes, character of the sanctions to be applied if the reply is unsatisfactory, and the time limit to be allowed for compliance; reservation of right to take appropriate action if agreement among the powers is not reached on the measures to be applied in the event of refusal of redress by the Cantonese Government.	191
Apr. 14	<i>From the Consul General at Hankow (tel.)</i> Chen's reply (text printed), to American Government's note of April 11.	192
Apr. 14 (160)	<i>To the Minister in China (tel.)</i> Summary of press comment on the identic notes, indicating approval of action but feeling that in taking action the U. S. Government should do so independently.	194
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Apr. 15 (164)	<i>To the Minister in China (tel.)</i> Instructions to cable comments and any information as to textual differences in Chen's replies to the several powers.	196
Apr. 15 (440)	<i>From the Minister in China (tel.)</i> Comments on the variations in Chen's replies; Ministers' decision to send identic recommendation to their Governments (text printed), requesting authorization to direct the presentation to Chen of identic notes (text printed) which declare that unless Nationalist authorities state unequivocally and without delay that they intend to satisfy the demands, the Governments will be obliged to consider such measures as may be necessary to obtain compliance; reservation by the American Minister of freedom with regard to sanctions.	196
Apr. 17 (454)	<i>From the Minister in China (tel.)</i> Agreement of the powers on the impracticability of suggestion in Chen's reply for the establishment of five separate international commissions to investigate the same facts and the resultant recognition of the Nationalist regime as a consequence of the Nanking outrages.	198
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Apr. 18 (268)	<i>From the British Ambassador</i> Observation by the British Government that the last sentence of the suggested identic reply to Chen's note presupposes that the powers are prepared, if necessary, to enforce their demands by the application of sanctions; information that the British Minister has been instructed to join in the identic reply, and expression of hope that American Minister will be instructed similarly.	201
Apr. 19	<i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Information from the British Ambassador that he had received telegraphic instructions from London to suspend action in regard to his note of April 18.	203
Apr. 20 (462)	<i>From the Minister in China (tel.)</i> Readiness of British, French, and Italian colleagues to proceed with the contemplated action; nonreceipt by Japanese Minister of instructions as yet; hope of American Minister that he may receive instructions immediately.	203
Apr. 20 (176)	<i>To the Minister in China (tel.)</i> Disapproval of Minister's joining in the identic note, because the pressing of demands now might further drive the moderates in the Nationalist Party to the side of the radicals, and because the note contains a threat to use sanctions. Opinion that each power should make a separate reply, because Chen's notes to each power are different.	203
Apr. 20	<i>Memorandum by the Secretary of State</i> Conversation in which the British Ambassador agreed with the Secretary's view that the political situation in the Nationalist Party made it advisable to await developments before replying to Chen's note or taking up the matter of sanctions.	204
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Apr. 22	<i>To the British Ambassador</i> Reiteration of opinion as to inadvisability of pressing demands at this time and of the fact that the American Government is not prepared at the present time to apply sanctions or to consider the question.	206
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1927 Apr. 23	<i>Memorandum by the Under Secretary of State</i> Conversation in which the Italian Ambassador stated that the Italian Minister in Peking had been authorized to join with the other powers in presenting the identic note, with or without reference to sanctions; expression of American attitude as stated in note to the British Ambassador of April 22.	208
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Apr. 25	<i>Memorandum by the Secretary of State</i> Conversation in which the Japanese Ambassador stated unwillingness of his Government to join in the proposed note or to apply sanctions; objections by the Secretary to the substitute note offered by the Japanese Minister (text printed), but willingness to give it consideration; Secretary's suggestion that the powers might await the result of the split in the Nationalist Party.	211
Apr. 26 (488)	<i>From the Minister in China (tel.)</i> Decision of the Minister's colleagues to send to their Governments a joint recommendation (text printed), advising of Japanese proposal, of modified draft note to be accompanied by a declaration which they hope will bring the American Government back into line, of intention to proceed without American Government if obliged to do so, and of renewal of discussion of questions of negotiations with Chiang and the application of sanctions at Hankow.	214
Apr. 28 (194)	<i>To the Minister in China (tel.)</i> Information to Japanese Ambassador that the note in modified form is unacceptable, and reasons for belief that the wiser course would be to refrain from action pending developments; inability to understand Japanese agreement to sanctions, because of contrary information from the Japanese Ambassador in the past; instructions to use influence with the other Ministers against drastic action.	215
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May 3	<i>From the Consul at Nanking (tel.)</i> Suggestion that the cultivation of as good relations as possible with Chiang group, as the best of the Nationalist movement, is advisable, providing Chiang group will promise satisfaction for the Nanking outrages and will respect American rights.	217

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May 6 (526)	<i>From the Minister in China (tel.)</i> From Shanghai, May 4: Information that C. C. Wu, who has been offered Foreign Ministry by Nanking Government, may wish to confer concerning a further note to be sent by the powers and a suitable answer for the Nanking Government; inquiry as to action to be taken. To Shanghai, May 6: Instructions that no objection appears to arise against the adoption by Consul General Gauss or Consul Davis of a receptive attitude toward any initiative taken by Wu; instructions to make no commitments. Minister's request for instructions.	219
May 9 (211)	<i>To the Minister in China (tel.)</i> Approval of instructions to Shanghai; authorization to inform colleagues, if thought advisable; disapproval of any new note on the Nanking affair.	219
May 12 (547)	<i>From the Minister in China (tel.)</i> From Nanking, May 11: Continued occupation by military of American mission buildings as barracks and hospital.	220
May 26 (589)	<i>From the Minister in China (tel.)</i> From Shanghai, May 21: Receipt of note of May 20 from Quo Tai-chi, Commissioner of Foreign Affairs, advising that Wu wishes to confer informally to effect a settlement of the Nanking incident (text printed). From Shanghai: Information that other nationalities have been or will be approached in the same manner. To Shanghai: Advice that sufficient authorization has already been given to receive any offers of settlement; instructions to keep in close touch with colleagues.	220
May 27 (235)	<i>To the Minister in China (tel.)</i> Approval of instructions to Shanghai; instructions to direct consul general at Shanghai to inform Wu of readiness to receive any proposal made by Wu on behalf of Chiang and to report same to U. S. Government.	221
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May 28	<i>To the British Ambassador</i> Appreciation for assistance rendered by British naval officers to Americans during their escape from Nanking.	223

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1927 July 6 (699)	<p><i>From the Minister in China (tel.)</i></p> <p>From Shanghai, July 2: Nanking Government's belief that the next move lies with the United States, and its desire that representatives be appointed on joint commission of investigation to determine guilt and amount of damage.</p> <p>Minister's reiteration of recommendation stated in telegram No. 650, June 16.</p> <p>(Footnotes: Information that the recommendation was to maintain a receptive attitude and to wait for such advantages as might come from British conversations with Wang Chung-hui, who became Minister of Justice in the Nanking Government on July 15.)</p>	224
July 22 (752)	<p><i>From the Minister in China (tel.)</i></p> <p>Substance of telegram from Shanghai, July 13: Proposals by Wu, July 12, for settlement of Nanking incident (text printed); possibility that informal conversations might result in amendments to make the proposals reasonably satisfactory.</p> <p>To Shanghai: Opinion that the terms do not constitute adequate basis of amends, and that there is no need for haste in negotiations.</p>	225
July 25	<p><i>From the British Embassy</i></p> <p>Hope that no settlement of the Nanking incident will be made until the terms have been fully discussed by the representatives of the powers at Peking.</p>	227
July 28	<p><i>To the British Embassy</i></p> <p>Information that the American Minister has been instructed to keep in touch with his colleagues. Opinion that after a complete discussion each Government should reserve complete liberty of action if agreement with the others is impossible.</p>	228
Sept. 26	<p><i>From the Chargé in China (tel.)</i></p> <p>From Paxton at Chinkiang, September 24: Report that a few missionaries have returned to the interior, and that there is some improvement in conditions at Nanking; request for instructions to return to Nanking on board Standard Oil Co. vessel; desirability of having an American warship at Nanking for communications.</p> <p>To Paxton, September 26: Instructions to return to Nanking but not to go ashore unless so directed by Legation; advice that further information will be sent with regard to stationing a naval vessel at Nanking.</p>	228
Oct. 26 (954)	<p><i>From the Chargé in China (tel.)</i></p> <p>Reasons for conclusion that time is not opportune for negotiations with Nanking regime or continuance of the informal conversations between Consul General Cunningham and Wu; recommendation that no action be taken now toward settlement of the incident.</p> <p>From Cunningham, October 24: Assumption that authorization is given to point out to Quo objections to the Nanking proposals.</p> <p>Chargé's intention to instruct consul general, if Department approves recommendation, to reply to Quo in conformity therewith.</p>	229

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1927 Oct. 27 (959)	<i>From the Chargé in China (tel.)</i> Refusal of British consul general at Shanghai to resume negotiations with Wang for settlement, and information that French and Japanese Minister will similarly refuse any overtures.	231
Nov. 1 (967)	<i>From the Chargé in China (tel.)</i> Attempt by Wang to reopen negotiations with British with an offer more nearly to meet British Minister's original terms; and British Minister's recommendation to his Government that no steps be taken toward settlement now. Information that safe in American consulate at Nanking has been rifled, despite Nanking authorities' promise of protection.	232
Nov. 3	<i>Memorandum by the Assistant Secretary of State</i> Comments on the basis for settlement of Nanking incident presented by Wu in July; hope that the incident may be settled so far as the United States is concerned, and that consulate at Nanking may be reopened; hope that Minister will seek to bring about such a settlement at the earliest favorable opportunity. (Footnote: Information that memorandum was evidently prepared for transmission to the Minister in China over the signature of the Secretary of State.)	232
Nov. 8 (980)	<i>From the Chargé in China (tel.)</i> Approval by British Government of its Minister's recommendation that no action be taken toward settlement; adoption of similar position by Japanese Government; understanding that French and Italian Ministers are recommending a like course to their Governments.	234
Dec. 10 (1079)	<i>From the Minister in China (tel.)</i> Desire of Japanese Government to seek an expression of regret from Ch'eng Ch'ien for his part in Nanking affair before entering into direct relations with him at Hankow. Minister's belief that American Government should not join in the proposed action.	235
Dec. 10 (405)	<i>To the Minister in China (tel.)</i> Concurrence in Minister's view.	236

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1927 Jan. 6 (13)	<i>From the Minister in China (tel.)</i> From Hankow, January 5: Critical antiforeign situation; assumption by military of control over British Concession; possibility that women and children may have to be evacuated; need for authorization to make transportation arrangements and to incur expense in case of evacuation. Minister's authorization to Hankow as requested. From Hankow, January 5: Increasingly grave situation; withdrawal of women and children from British Concession, and evacuation of many American women.	236
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1927 Jan. 6 (16)	<i>From the Minister in China (tel.)</i> From Hankow, January 5: Information that almost all women and children have withdrawn from British Concession, that many of the British men remaining are concentrated, and that evacuation of all women and children seems inevitable. Advice from British Legation that it has received warning of an attack planned on British Concession at Kiukiang. Suggestion to Admiral Williams, commander in chief, U. S. Asiatic Fleet, that he or a senior officer proceed to Shanghai to command naval forces there.	237
Jan. 8 (18)	<i>From the Minister in China (tel.)</i> From Hankow, January 6: Report that the situation is considerably relieved but that much confusion and uncertainty exist; evacuation of some American and British women and children to U. S. S. <i>Kutwo</i> ; readiness of remaining American women and children to leave on short notice; confidence of Chen, Nationalist Foreign Minister, that every precaution will be taken to protect foreign lives and property.	237
Jan. 9	<i>From the Consul at Foochow (tel.)</i> Possibility of danger to Americans at Shaowu from lawless Nationalist soldiers; information that representations have been made locally and that consul general at Hankow has been requested to protest to Nationalist commander in chief, insisting that effective measures for protection be taken.	238
Jan. 10 (21)	<i>From the Minister in China (tel.)</i> From Hankow, January 7, 8, and 9: Reports that situation has generally eased, but that great uncertainty prevails; departure of the <i>Kutwo</i> and plans of additional women and children for immediate departure; information that the British Concession at Kiukiang was taken over by the Chinese, and that Americans have either been evacuated or are safely aboard U. S. S. <i>Penguin</i> ; departure of American women and children from Ichang; intention to warn missionary organizations to withdraw their representatives from interior points; improvement in situation and withdrawal of soldiers from British Concession and its administration by Nationalist Government Committee.	238
Jan. 11 (23)	<i>From the Minister in China (tel.)</i> From Hankow, January 10: Dispatch by missionary organizations, at consul general's request, of telegram to their interior missions (text printed), advising of consul general's suggestion that if they feel themselves in danger they should go to a large port where transportation facilities are good; quiet situation but no resumption of business by British firms, and departure of a few more American women and children.	240
Jan. 11 (10)	<i>To the Minister in China (tel.)</i> Approval of Minister's action reported in telegram No. 13 of January 6.	241
Jan. 13 (25)	<i>From the Minister in China (tel.)</i> From Foochow: Belief that Americans in Shaowu are in danger, and suggestion that the women and children at least be sent to Foochow providing a safe conduct can be arranged; advice to Americans in the interior to be prepared to leave on short notice.	241

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1927 Jan. 14 (29)	<i>From the Minister in China (tel.)</i> From Hankow, January 12: Information that daily incidents disclosing disregard of foreigners' rights demonstrate the new Government's lack of control over the labor group.	241
Jan. 16 (34)	<i>From the Minister in China (tel.)</i> From Foochow, January 15: Report of serious rioting at Spanish Dominican Orphanage, escape of the Spanish sisters and priests, and potential danger to American Dominican fathers; suggestion of consul and colleagues that a foreign warship be dispatched to Foochow to aid in possible evacuation of foreigners. Communication of this information to the commander in chief, with approval of the suggestion.	242
Jan. 17 (38)	<i>From the Minister in China (tel.)</i> Dispatch of the U. S. S. <i>Pillsbury</i> to Foochow.	242
Jan. 17 (42)	<i>From the Minister in China (tel.)</i> From Nanking, January 16: Suggestion that Americans be withdrawn immediately from Cantonese-controlled areas, and that Department request home organizations to order their workers' withdrawal. To Nanking, January 17: Assumption that consul is acting on previous authorization and is advising Americans in his district to withdraw from such areas; request for further, specific comment on Minister's plan to warn all Americans to withdraw from the areas under Nationalist control. Suggestion that Department take up with heads of mission boards the question of making preparations for the eventuality that missionaries in Central and South China will be compelled to withdraw.	243
Jan. 18 (47)	<i>From the Minister in China (tel.)</i> From Foochow: Systematic rioting by Nationalist soldiers and looting of foreign mission property; conviction that the rioting was deliberately planned as a first step to drive out foreigners; arrangements for immediate evacuation of American citizens in cooperation with <i>Pillsbury</i> .	243
Jan. 18 (49)	<i>From the Minister in China (tel.)</i> Instructions to consul general at Hankow to protest to Nationalist authorities and to inquire what assurances they will give for protection of American life and property at Foochow; instructions to consul at Foochow approving his action and authorizing him to incur any expenses actually necessary to evacuate Americans; Minister's request for approval of his instructions to Foochow; plan to file formal protest with Foreign Ministry at Peking.	244
Jan. 19 (16)	<i>To the Minister in China (tel.)</i> Approval of instructions to Hankow and Foochow; authorization to use own discretion with regard to a possible discontinuance of protests to Peking Government against acts of forces not under its control.	245
Jan. 19	<i>From the Chief of the Division of Far Eastern Affairs to Mr. A. L. Warnshuis, Secretary of the International Missionary Council, New York</i> Request that the interested American missionary organizations be advised of necessity for their representatives in Yangtze Valley or South China to make preparations for evacuation if such action becomes necessary.	245

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Jan. 20 (53)	<p><i>From the Chargé in China (tel.)</i> From Amoy, January 19: Anti-Catholic agitation; agreement of consular body that presence of a foreign war vessel is desired in addition to the Japanese cruiser expected January 21. Repeated to commander in chief.</p>	246
Jan. 20 (54)	<p><i>From the Chargé in China (tel.)</i> Suggestion that the Department advise American mission boards to instruct their missionaries to withdraw promptly when directed to do so by American diplomatic or consular officers, in view of past difficulties in this regard.</p>	247
Jan. 20 (56)	<p><i>From the Chargé in China (tel.)</i> From Foochow, January 19: Departure of <i>Pillsbury</i> for Manila with evacuees, other steamers to Shanghai, Hongkong and other ports; departure for Foochow of Americans in the interior. Chargé's request to Governor General, Manila, for assistance to Americans aboard <i>Pillsbury</i>; suggestion that American Red Cross be advised of likelihood of need for aid at Hongkong, Manila, and Shanghai in the near future.</p>	247
Jan. 20 (57)	<p><i>From the Chargé in China (tel.)</i> From Hankow, January 19: Information that demands of labor are becoming increasingly unreasonable and that the tense situation is in no way relaxed; departure of additional foreigners.</p>	248
Jan. 22 (60)	<p><i>From the Chargé in China (tel.)</i> From Foochow, January 20: Probability of further attacks on foreign mission property shortly; request for confirmation of the expected dispatch of naval vessel to replace the <i>Pillsbury</i>; information that the evacuation is progressing. Information that the <i>Parrott</i> is proceeding to Foochow.</p>	248
Jan. 22 (21)	<p><i>To the Chargé in China (tel.)</i> Advice that American missionary bodies have been warned to make preparations for immediate evacuation of their representatives in Central and South China if it is necessary.</p>	249
Jan. 22 (61)	<p><i>From the Chargé in China (tel.)</i> From Hankow, January 20: Foreign Minister's intention to order protection of foreign life and property at Foochow and elsewhere and to investigate Foochow incident at once, and his request that Minister refrain from suggesting that Americans evacuate Nationalist-controlled areas; consul general's belief that the promised protection may be difficult to provide, and that no improvement in conditions is in prospect. Chargé's intention to withhold any general warning to evacuate Nationalist territory, pending developments; instructions to Chungking and Hankow to expedite evacuation from inaccessible districts as quickly and quietly as possible.</p>	249
Jan. 23 (63)	<p><i>From the Chargé in China (tel.)</i> From Hankow, January 22: Governing council's instructions to commander in chief and Fukien provisional political conference, January 21, for protection of missions and foreign residents, and for investigation of recent attack on American missions and residents; information to Foochow.</p>	251

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1927 Jan. 24 (73)	<p><i>From the Chargé in China (tel.)</i></p> <p>From Chungking, January 18 and 21: Consul's warning to Americans for immediate evacuation of his district, in view of inadequate transportation facilities; progress of evacuation from interior points to Chungking.</p> <p>Instructions to Changsha to expedite a quiet evacuation; report that missionaries passing through Chungking are telegraphing those remaining in the interior to leave immediately.</p>	251
Jan. 26 (83)	<p><i>From the Chargé in China (tel.)</i></p> <p>From Canton: Discreet advice to Americans in the interior to leave for places of safety.</p>	253
Jan. 26 (85)	<p><i>From the Chargé in China (tel.)</i></p> <p>From Hankow, January 25: Circular instructions through Hankow representatives of missionary organizations that Americans in inaccessible places withdraw to places where transportation is good and be prepared to withdraw immediately in case of threatened antforeign outbreaks; report that conditions are quiet in Hankow since the resumption of business in the British Concession.</p>	253
Jan. 27 (88)	<p><i>From the Minister in China (tel.)</i></p> <p>From Amoy, January 26: Desire for dispatch of foreign war vessel to Amoy because of departure of Japanese cruiser January 23; warning to Americans in inaccessible places of advisability of coming to Amoy.</p>	253
Jan. 28 (90)	<p><i>From the Minister in China (tel.)</i></p> <p>From the commander in chief: Belief that, in view of indications that British intend to defend Shanghai Settlements and may take more drastic action elsewhere, Americans should not remain in territory evacuated by the British.</p> <p>To the commander in chief: Information concerning the progress of withdrawal of Americans from various districts in China.</p>	254
Jan. 31 (38)	<p><i>To the Minister in China (tel.)</i></p> <p>Instructions to inform the consuls concerned that authorization to incur expenses for the evacuation of American citizens covers only such additional expenses as demurrage for vessels, and does not include steamship fares, but that funds may be advanced for such expenses on citizen's written undertaking to refund the amounts.</p>	254
Feb. 1 (103)	<p><i>From the Minister in China (tel.)</i></p> <p>From Changsha, January 31: Withdrawal of 170 Americans, preparations for remainder, except for 25, to leave.</p>	255
Feb. 3	<p><i>Memorandum by the Chief of the Division of Far Eastern Affairs</i></p> <p>Conversation in which the Chinese Minister requested reassurances that American naval forces in Chinese waters were not being increased, and was advised by the Under Secretary and the Chief of the Division of Far Eastern Affairs that the additional vessels were merely part of the fleet in Asiatic waters.</p>	255
Feb. 4	<p><i>From the Consul General at Shanghai (tel.)</i></p> <p>Information that consul general has made no suggestion that Americans withdraw from Shanghai to Manila, but that he has advised the quiet withdrawal of women and children from the interior to Shanghai, and has advised all Americans to be prepared for immediate withdrawal to ports of protection or, if</p>	257

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1927 Feb. 4 (47)	<i>To the Minister in China (tel.)</i> Request for information, in view of mission headquarters' advice that consul at Changsha has "ordered" Americans to depart but that Standard Oil employees have not left Hunan or Hupeh, whether consulate has differentiated between Americans engaged in different pursuits or has couched the advice in the form of orders.	257
Feb. 6 (115)	<i>From the Minister in China (tel.)</i> From Hankow, February 5: Firing upon American commercial vessels en route from Chungking to Ichang with American refugees aboard.	258
Feb. 10 (129)	<i>From the Minister in China (tel.)</i> From Foochow, February 8: Improvement in local situation and consul's expectation of definitive assurances from local authorities for protection; request for opinion as to any change in policy concerning the remaining Americans or the return of those who have left. To Foochow, February 10: Inadvisability of return of Americans, and opinion that the present evacuation might be suspended if local conditions permit. To Hankow, February 10: Authorization to express to Chen satisfaction over improved conditions at Foochow and the hope that he will continue to assist in the stabilization of conditions in that area.	258
Feb. 15 (144)	<i>From the Minister in China (tel.)</i> Information that the Legation's instructions made no differentiation between Americans engaged in different pursuits, and that consul at Changsha was advised January 28 that there was no objection to the remaining there of a limited number of Americans, provided they could be given asylum if necessary on the <i>Villalobos</i> . From Changsha, February 10: Assurance that no Americans have been "ordered" to withdraw, but that they have been advised and urged to do so.	259
Feb. 17 (149)	<i>From the Minister in China (tel.)</i> From Canton, February 16: Hope that the Department will intervene through mission headquarters to prevent the return of missionaries to their interior stations. Concurrence in suggestion, and instructions to consul at Canton to urge Americans to refrain at present from returning to interior points. (Footnote: Information that the substance of this telegram was communicated to A. L. Warnshuis on February 28 for transmission to the mission organizations concerned.)	260
Feb. 19 (157)	<i>From the Minister in China (tel.)</i> From Chungking, February 11: Opinion that if the present crisis passes indeterminately and Americans return to their stations in Szechuan feeling that their withdrawal was unnecessary, it will be difficult, if not impossible, to clear the field during any new crisis. To Chungking, February 16: Belief that the present evacuation is fully justified; inability to foresee that return to Szechuan can be sanctioned until effective guarantees of protection are received.	260

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1927 Mar. 9 (203)	<i>From the Minister in China (tel.)</i> Opinion of commanding officer, U. S. S. <i>El Cano</i> , at Ichang, in report of February 18 (extract printed), that a strict boycott will soon develop against everything British which will cause difficulty in evacuation of British subjects in American ships and will eventually include all Americans; Minister's comment on this possibility in connection with withdrawal of Americans from Szechuan and above Hankow.	261
Mar. 22 (235)	<i>From the Minister in China (tel.)</i> From Chungking, March 19: Information that, excluding Batang, there are 30 Americans remaining in Szechuan.	262
Mar. 22 (240)	<i>From the Minister in China (tel.)</i> To consuls in Nationalist territory, including Shanghai: Reminder, in view of Nationalist capture of Shanghai and possibility of incidents leading to antiforeign reaction, of previous instructions to urge the withdrawal of Americans and to incur necessary expenses; possibility that Shanghai may not be available as a place of refuge or transshipment. Repeated to Admiral Williams with inquiry as to feasibility of arranging an evacuation point other than Shanghai; similar inquiry to consul at Nanking regarding feasibility of Nanking as concentration point.	262
Mar. 24	<i>To the Consul General at Shanghai (tel.)</i> Readiness of Red Cross to take prompt and appropriate action when consul general advises that an emergency exists and furnishes details of the plan for administering relief and estimate of the amount necessary.	263
Mar. 24 (247)	<i>From the Minister in China (tel.)</i> From Hankow, March 23: Information that the critical state of affairs due to possible antiforeign reaction from incidents at Shanghai, the closing of foreign banks and newspapers, and the general feeling of uncertainty, have caused consul general to request the withdrawal of American women and children; inadequate transportation facilities, but arrangements for departure of 200 women and children on the <i>Sui Wo</i> .	263
Mar. 24	<i>From the Consul General at Shanghai (tel.)</i> Information that the serious situation at Nanking, tension at Hankow, and indications of possible radical outbreaks in Shanghai, have caused consul general to broadcast a radio warning in code to Americans in his district to withdraw to Shanghai.	264
Mar. 25 (253)	<i>From the Minister in China (tel.)</i> To Tsinan: Advice concerning Nanking situation and belief that it would be expedient to initiate the withdrawal of Americans in the southern part of district to Tsinanfu or other suitable places.	264

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1927 Mar. 25 (254)	<i>From the Minister in China (tel.)</i> To Changsha and Chungking: Instructions to urge immediate withdrawal of Americans and to inform those who refuse to withdraw that they remain at their own risk; Legation's consideration of closing consulate and recommending withdrawal of gunboat; authorization, in case of acute emergency, to close consulate and withdraw with other Americans. Instructions to Hankow to speed withdrawal of Americans; instructions to Amoy, Canton, Foochow, and Swatow to concentrate Americans at those places for immediate evacuation with the assistance of naval vessels at or now proceeding there-to; Minister's request for authorization to use own discretion to direct closing of consulates at Changsha and Chungking and to recommend withdrawal of the gunboats, following a final opportunity for the remaining Americans to withdraw.	265
Mar. 25	<i>From the Consul General at Shanghai (tel.)</i> Request for \$10,000 appropriation for relief of refugees due to arrive at Shanghai.	266
Mar. 26	<i>To the Consul General at Shanghai (tel.)</i> Authorization to draw upon Department up to \$10,000, the sum appropriated by the Red Cross.	266
Mar. 26 (259)	<i>From the Minister in China (tel.)</i> From Hankow, March 24: Imminent departure of <i>Sui Wo</i> for Shanghai; arrangements for additional vessel; intention to concentrate American forces at consulate if emergency demands.	266
Mar. 26 (102)	<i>To the Minister in China (tel.)</i> Authorization as requested in Minister's telegram No. 254 of March 25, and inquiry whether he sees any objection to making this public.	267
Mar. 26 (262)	<i>From the Minister in China (tel.)</i> From Foochow, March 25: Telegraphic warning to the remaining 20 Americans in the interior to withdraw to Foochow; arrangements for concentration of Americans at evacuation points, and urgent suggestion that they depart on vessels leaving the 27th and 28th; anti-Christian and antiforeign demonstrations on March 25.	267
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Mar. 26 (263)	<i>From the Minister in China (tel.)</i> Existence of serious situation at Chinkiang, where American and British refugees have concentrated in Socony plant and Asiatic Petroleum, respectively; looting and firing in the concessions; and preparation of Americans to leave for Shanghai on the <i>Wenchow</i> .	268

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Mar. 28	<i>From the Consul at Mukden (tel.)</i> Suggestion that publicity be given to the fact that Americans in Manchuria are in nowise affected by the events in the Yangtze Valley.	268
Mar. 28 (268)	<i>From the Minister in China (tel.)</i> From Amoy, March 27: Notification to Americans to concentrate at Amoy; belief that settlement is safe so long as the foreign naval forces are present.	269
Mar. 28 (269)	<i>From the Minister in China (tel.)</i> From Canton, March 26: Warning to Americans in Canton and suburbs to be prepared for immediate evacuation, and to those in the interior to proceed to Hongkong; promise of local authorities to protect foreigners.	269
Mar. 28 (273)	<i>From the Minister in China (tel.)</i> To Hankow: Information that Legation has urged the American missions, companies, and individuals concerned to withdraw from all districts of Honan south of the Yellow River.	269
Mar. 29 (276)	<i>From the Minister in China (tel.)</i> To American missions, companies, and individuals in northern Anhwei and northern Kiangsu, March 26: Advisability of evacuation, and doubt that departure via Yangtze is practicable.	270
Mar. 29	<i>From the Vice Consul at Tsinanfu (tel.)</i> Progress of evacuation from southern Shantung; endeavors to withdraw 16 Americans from Hwaiyüan, Anhwei.	270
Mar. 29 (282)	<i>From the Minister in China (tel.)</i> From Hankow, March 25: Telegram to consul general at Shanghai (text printed) suggesting that arrangements be made for arrival of refugees on the <i>Sui Wo</i> ; evacuation of remaining American women to the <i>Loongwo</i> ; opinion that in spite of Chen's promises of protection, it is advisable to place the remaining women and children aboard steamers.	270
Mar. 30 (295)	<i>From the Minister in China (tel.)</i> Report from Hankow, March 27, of the number of Americans who have been withdrawn, plans for evacuation of those remaining, and of the deposit of consulate general's official papers aboard naval vessels for safekeeping.	271
Mar. 30 (297)	<i>From the Minister in China (tel.)</i> From Hankow, March 26 and 29: Information that practically no American women remain ashore at Hankow and Wuchang, that the <i>Loongwo</i> will sail the next day, that arrangements have been made for complete evacuation of remaining Americans in case of emergency, and departure of a number of American businessmen and missionaries, including women, on the <i>Shasi</i> for Shanghai.	271

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Mar. 31 (305)	<i>From the Minister in China (tel.)</i> Protest of Standard Oil Co.'s Shanghai office, March 30 (text printed), against contemplated closing of Chungking and Changsha consulates and withdrawal of gunboats; Minister's reply restating his instructions to Changsha and Chungking and the fact that the press in Peking was informed on March 28.	272
Mar. 31 (112)	<i>To the Minister in China (tel.)</i> Protest by National City Bank and Standard Oil Co. against reported issuance by consul general at Hankow of complete evacuation order covering all American businessmen, and their hope that unless military necessities imperatively require it, complete evacuation will not be ordered. Instructions to obtain information from consul general at Hankow.	273
Mar. 31 (307)	<i>From the Minister in China (tel.)</i> From Swatow: Concentration in Swatow of Americans from outlying districts, and warning to six Catholic missionaries in outlying district to leave.	273
Mar. 31 (308)	<i>From the Minister in China (tel.)</i> From Foochow, March 30: Report that 112 Americans are now in consular district, that 20 who will not leave their stations in the interior could not be evacuated in an emergency, that the same number are expected to leave shortly, and that the remainder intend to stay until it becomes necessary for all to withdraw.	273
Apr. 1 (313)	<i>From the Minister in China (tel.)</i> Closing of Chungking consulate March 30, and presence of consul and vice consul aboard <i>Monocacy</i> , expected departure of British gunboats on March 31, plan of American consul to wait at Chungking for word from persons in outlying districts as to their intentions concerning withdrawal, and development of worse conditions at Chungking.	274
Apr. 1 (314)	<i>From the Minister in China (tel.)</i> From Hankow, March 31, repeated to commander in chief: Request for additional naval forces to convoy passenger ships to Shanghai, as many Americans are refusing to leave without such convoy.	274
Apr. 1 (113)	<i>To the Minister in China (tel.)</i> Information to Standard Oil Co. and Texas Co. that in view of grave situation existing at Changsha and Chungking, Department authorized the action recommended by Minister's telegram No. 254 of March 25; request for information concerning action of British and Japanese in this regard.	275
Apr. 1 (315)	<i>From the Minister in China (tel.)</i> From Hankow, March 31: Departure of <i>Shasi</i> and plans for departure of <i>Tungwo</i> with additional Americans.	

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1927 Apr. 2	<p><i>From the Consul General at Hankow (tel.)</i> Information that evacuation of Americans from Nanchang, Kiukiang, Wuchang, and Ichang is almost complete, and expectation that after departures the following day, less than 100 Americans, mostly men, will remain in Hankow, and can be easily evacuated in emergency.</p>	275
Apr. 2 (321)	<p><i>From the Minister in China (tel.)</i> To Hankow, April 1: Information that the Legation's instructions applied to all Americans, including men; willingness to withhold objection to a few American men remaining in Hankow if absolutely necessary, providing their number is small and the gunboats are prepared to evacuate them if necessary; information that they remain at their own risk. From the commander in chief, April 1: Concurrence in opinion of Patrol commander that regardless of the policy adopted by the U. S. Government, complete evacuation of nationals must take place. Minister's concurrence in this view.</p>	275
Apr. 2 (322)	<p><i>From the Minister in China (tel.)</i> Spread of uneasiness among Americans in Peking; encouragement by Legation to the evacuation by missionary institutions of their women and children.</p>	276
Apr. 2 (324)	<p><i>From the Minister in China (tel.)</i> From Chungking, March 31: Anti-American and anti-British demonstrations; concentration of Americans on American gunboat and Standard Oil Co. vessel; delay in departure because of necessity to await word from Americans in the interior.</p>	276
Apr. 3	<p><i>From the Consul General at Hankow (tel.)</i> Rioting in Japanese Concession; hurried evacuation of Japanese in great numbers; notification to Americans to go to ships for the night preparatory to leaving; information that a large number are sailing that night, and that the city is greatly excited.</p>	277
Apr. 4	<p><i>From the Consul General at Hankow (tel.)</i> Maintenance of order in Japanese Concession by armed Japanese volunteer and naval forces, and their intention to defend at all costs; information that no disorders occurred elsewhere but that the situation is problematical.</p>	277
Apr. 5 (339)	<p><i>From the Minister in China (tel.)</i> To Tsinan: Instructions to expedite withdrawal of Americans to seacoast treaty ports, except those Americans in Tsinan, who may be directed to leave at consul's discretion.</p>	278
Apr. 5	<p><i>From the Consul at Tientsin (tel.)</i> Information that, while Tientsin is quiet, apprehension prevails; issuance of advice to Americans in district, except those at Peking, to come to Tientsin as soon as possible.</p>	278
Apr. 5	<p><i>From the Consul General at Hankow (tel.)</i> Continued evacuation of Japanese women and children, and patrol of Japanese Concession; reports of growing unrest among coolie element and belief that local situation is full of serious possibilities.</p>	278
Apr. 5	<p><i>From the Consul at Chefoo (tel.)</i> Concentration at Chefoo of practically all foreigners in that district.</p>	279

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Apr. 5 (344)	<i>From the Minister in China (tel.)</i> Withdrawal of British consul and gunboats from Chungking on March 31 and intention to withdraw from Changsha on April 5; information that Japanese have not withdrawn consuls and gunboats from either place.	279
Apr. 5 (345)	<i>From the Minister in China (tel.)</i> Issuance by British of instructions to nationals to withdraw from the interior of North China to treaty ports. (Footnote: Japanese Minister's recommendation to his Government that all Japanese in Nationalist territory be withdrawn.)	279
Apr. 6 (352)	<i>From the Minister in China (tel.)</i> Firing upon Chinese by <i>Monocacy</i> armed guards to prevent attack on American steamer <i>Chinan</i> at Chungking, April 3, but settlement of matter by steamship company and non-expectation of reaction; information that no Americans are leaving Yachow and Chengtu, and that <i>Monocacy</i> will escort <i>Chinan</i> and Socony steamer withdrawing on April 4 with all remaining Americans and British.	280
Apr. 6 (353)	<i>From the Minister in China (tel.)</i> From Shanghai, April 4: Consul general's intention to prevent the return of missionaries to Hankow by asking colleagues to have shipping companies refuse them transportation. Approval of consul general's attitude.	280
Apr. 6 (354)	<i>From the Minister in China (tel.)</i> From Patrol commander: Preparations for the evacuation of Changsha by <i>Palos</i> , probably on April 7, because of developing labor agitation.	281
Apr. 6 (357)	<i>From the Minister in China (tel.)</i> From Hankow, April 4: Information that additional Americans have departed, and that 89 men, 19 women, and 12 children remain, most of them sleeping aboard ships.	281
Apr. 6 (360)	<i>From the Minister in China (tel.)</i> From Patrol commander, April 5: Progress of evacuation of foreigners from Hankow, and expectation that within a week only 35 to 40 Americans, businessmen remaining at their own risk, will be left; opinion that evacuation will not be desirable until British leave.	281
Apr. 6 (361)	<i>From the Minister in China (tel.)</i> From Patrol commander, April 5: Understanding that Japanese will evacuate Chungking as soon as steamer is available; information that 19 Americans remain in Szechuan; declaration at Changsha, April 4, of general strike and boycott against American firms and goods.	282
Apr. 6 (365)	<i>From the Minister in China (tel.)</i> From Tsinanfu, April 5: Urgent recommendation to Americans to withdraw immediately to Tientsin; information that by April 10 only 6 American men will remain, except 11 members of Catholic mission; absence of any pronounced anti-foreign feeling or need for anxiety over local conditions at present.	282
Apr. 7 (367)	<i>From the Minister in China (tel.)</i> From Chungking, April 4: Departure from Chungking.	282

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1927 Apr. 7 (370)	<i>From the Minister in China (tel.)</i> From Patrol commander, April 7: Increasingly grave situation at Hankow; information concerning evacuation of Germans, Japanese, and Russians; pressure on Americans to evacuate and on those remaining to base upon <i>Para</i> .	283
Apr. 7 (372)	<i>From the Minister in China (tel.)</i> From Foochow, April 5: Request for opinion whether developments at Hankow and elsewhere necessitate the complete evacuation of Americans from Foochow. To Foochow, April 7: Information that the question of complete evacuation is primarily a matter for consul's discretion.	283
Apr. 7 (374)	<i>From the Minister in China (tel.)</i> From Changsha, April 4: Change in date for closing consulate to April 6, in view of strong anti-American agitation; information that most Americans in west Hunan will withdraw with consul, that American businessmen have moved aboard Standard Oil Co. vessel, and that missionaries will remain in city until evacuation.	284
Apr. 7 (376)	<i>From the Minister in China (tel.)</i> From Canton, April 4: Increase in antiforeign feeling; advice to missions in Canton and suburbs to withdraw women and children.	284
Apr. 8 (381)	<i>From the Minister in China (tel.)</i> From Hankow, April 7: Information that after the latest departures, 76 men, 6 women, and 5 children remain, and that some will depart in the next 2 days.	284
Apr. 8 (383)	<i>From the Minister in China (tel.)</i> Instructions to all women and children of the Legation to leave China at an early date.	285
Apr. 8 (385)	<i>From the Minister in China (tel.)</i> Information that Americans in Kalgan have been instructed to withdraw; recommendation that the consulate there be closed as soon as Americans are evacuated. (Footnote: Information that the consulate was temporarily closed April 23, permanently closed September 30, and the consular district incorporated into Tientsin district.)	285
Apr. 8	<i>From the Consul General at Hankow (tel.)</i> Information that 86 Americans remain, but that more will depart in a few days; receipt of urgent appeals for the chartering of a merchant ship to be retained in harbor as a temporary refuge for Americans; consul general's intention to make such arrangements if situation does not improve, and that businessmen and missionaries would bear part of the cost; request for a prompt reply.	285
Apr. 8	<i>From the Consul at Tientsin (tel.)</i> Information that consular district remains quiet, but that Chinese police raided Soviet institutions in Tientsin; convergence upon Tientsin of Americans from the interior.	286
Undated [Rec'd Apr. 9]	<i>From the Consul at Chefoo (tel.)</i> Advice that all Americans have now come to Chefoo and that none remain in the interior, that Chefoo is quiet, but doubt that provincial authorities could handle situation if occasion demanded it; presence of U. S. S. <i>Preston</i> .	286

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Apr. 9 (389)	<i>From the Minister in China (tel.)</i> From Tsinan, April 8: Continuance of quiet local situation; successful evacuation of foreigners, and information that only five American men, except for six members of American Catholic mission, remain in Tsinanfu.	287
Apr. 9 (391)	<i>From the Minister in China (tel.)</i> From Tsingtau, April 8: Inquiry as to possibility of arranging passage on Government transports for persons who desire to go to the United States but cannot secure accommodations, as it is reported is being done at Shanghai. To Tsingtau, April 9: Reply that Minister has no information concerning arrangements for transports at Shanghai, but will try to keep consul informed.	287
Apr. 9 (393)	<i>From the Minister in China (tel.)</i> From Vice Consul Vincent on board U. S. S. <i>Palos</i> , April 7: Closing of Changsha consulate on April 7; withdrawal of all Japanese and all Americans except 12 Catholics in west Hunan who were unable to depart, presumably because of bandits.	288
Apr. 10 (12)	<i>From the Consul General at Hankow (tel.)</i> Charter of <i>Kiangwo</i> as a refuge for Americans, at urgent request of Admiral.	288
Apr. 11 (404)	<i>From the Minister in China (tel.)</i> From Tsingtau, April 10: Information as to the number of Americans evacuated and those in Tsingtau and due to arrive there.	289
Apr. 11	<i>To the Consul General at Hankow (tel.)</i> Willingness of Government to pay its share of ship charter cost for accommodation of consul general and staff; information that the Government has no funds to charter ship for use as a place of refuge for Americans at Hankow for an indefinite time.	289
Apr. 12	<i>From the Consul General at Canton (tel.)</i> Continuance of tense situation, and little result from protests to local authorities against strike situation; information that few Americans remain in district, and that consul general will endeavor to induce women and children to remain at Hongkong.	289
Apr. 13	<i>From the Consul General at Hankow (tel.)</i> Termination of charter, in view of Department's telegram of April 11; concentration of almost entire American community at consulate at night.	290
Apr. 16	<i>From the Consul General at Shanghai (tel.)</i> Information that missionaries contemplate returning to Soochow in open defiance of advice and objections of consulate general; request for representations to home office of mission organization.	290
Apr. 16 (171)	<i>To the Minister in China (tel.)</i> Request for consideration and comment on telegram of April 14 from Hongkong office of Standard Oil Co. to American office (extract printed), stating intention to return their men to Kongmoon and Wuchow and opinion that it is a mistake to create ill will by the withdrawal of Americans from ports where conditions are peaceful, and that presence of one naval vessel at each port should be adequate to protect essential men in case evacuation should become necessary.	290

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1927 Apr. 17	<i>From the Consul General at Hankow (tel.)</i> Information that 73 Americans, including 2 women, now remain in Hankow, and that their evacuation should be accomplished without difficulty in case of further emergency; opinion that weeks of terrorism have produced a growing anti-Communist faction.	291
Apr. 17 (443)	<i>From the Minister in China (tel.)</i> Evacuation by Americans of northern Honan south of Yellow River, except for two Catholic fathers at Kaifeng.	291
Apr. 18 (455)	<i>From the Minister in China (tel.)</i> Advice, in reply to Department's telegram No. 171 of April 16, that Legation would view with concern any tendency on the part of American citizens to disperse to the interior and to smaller ports.	292
Apr. 20 (461)	<i>From the Minister in China (tel.)</i> Conference with heads of American missions and educational institutions, in which they agreed that the withdrawal of Americans both from Nationalist territory and from Northern China had had a profound and sobering effect upon thoughtful Chinese.	292
Apr. 25	<i>From the Consul General at Hankow (tel.)</i> To the Legation: Advice that there is a noticeable improvement in conditions and attitude toward foreigners, and that Hankow Government is taking measures to relieve the situation.	293
Apr. 25	<i>From the Consul at Amoy (tel.)</i> Information that all Americans have come in from the interior and that conditions throughout the district are quiet except for activities of bandits.	294
Apr. 26	<i>From the Consul General at Hankow (tel.)</i> Reasons for adoption of changed attitude toward foreigners, and efforts by Nationalist Government to regain popular support among both Chinese and foreigners.	294
Apr. 28 (493)	<i>From the Minister in China (tel.)</i> To Hankow: Commendation of consul general's actions in carrying out his difficult duties.	295
Apr. 29	<i>To the Consul General at Shanghai (tel.)</i> Instructions from mission to its representatives to conform with the recommendations in consul general's telegram of April 16.	295
May 4 (207)	<i>To the Minister in China (tel.)</i> From L. C. Gillespie and Sons, New York, May 3: Understanding that Navy is assisting Standard Oil Co. to remove their stocks above Hankow under convoy; request that Department authorize that permission be granted for American steamers to proceed above Hankow to bring down under convoy stocks of wood oil at Wanh sien and Ichang, and also to permit business to be carried on in the future in this manner. Instructions to repeat to Admiral Williams for his consideration.	295
May 6	<i>From the Consul General at Hankow (tel.)</i> Report that few foreigners are left above Hankow, and that there are 61 Americans at Hankow; information concerning military activities of Hankow Government.	296

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1927 May 9 (532)	<i>From the Minister in China (tel.)</i> From commander in chief: Disapproval of any attempt to carry on trade above Hankow until consulates above that port are reopened; information that Standard Oil steamer was escorted to and from Chenling to remove valuable stock of gasoline and that no further operations are contemplated or recommended. Concurrence in recommendation.	296
May 9 (533)	<i>From the Minister in China (tel.)</i> From Vice Consul Vincent at Hankow, May 7: Looting and burning of American Catholic property in western Hunan, flight and disappearance of priests; safety of American property at Changsha. To Vincent, May 9: Assumption that all practicable steps are being taken with local authorities for protection of American lives and property involved. (Footnote: Telegram from Hankow, June 9, reporting arrival of the priests at Kweiyang, Kweichow.)	297
May 11 (216)	<i>To the Minister in China (tel.)</i> Interest of Department in any attempts of other nationalities to continue or reopen commerce where Americans have evacuated.	297
May 14 (220)	<i>To the Minister in China (tel.)</i> Request of Gillespie and Sons that they be granted same privilege accorded Standard Oil Co., i. e., that they be permitted to evacuate stocks at Ichang and Wanh sien under escort. Instructions to repeat to Admiral Williams for his consideration.	297
May 15 (557)	<i>From the Minister in China (tel.)</i> From Yunnanfu, May 11: Reluctance of Americans in Yunnan and at Batang in Szechuan to withdraw; desire for further instructions to assist in inducing Americans to leave, in view of increasingly bad conditions; preparation of British and French consuls and remaining foreigners to leave.	298
May 16 (560)	<i>From the Minister in China (tel.)</i> To Yunnanfu: Instructions to advise all Americans to withdraw either to Yunnanfu or from the province entirely; instructions, in case of emergency, to close consulate and proceed to Hongkong; authorization to use own discretion in taking measures for the safety of Americans and own self.	298
May 17 (564)	<i>From the Minister in China (tel.)</i> From Hankow, May 16: Failure of mission of a German sent to Changsha by Asiatic Petroleum Co. to dispose of stocks there; assurance that company will not reopen at Changsha so long as present conditions prevail.	299
May 18 (224)	<i>To the Minister in China (tel.)</i> Approval of instructions to Yunnanfu reported in Minister's telegram No. 560 of May 16.	299

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1927 May 18 (226)	<p><i>To the Minister in China (tel.)</i> From Standard Oil Co.: Report from Shanghai office of presence of French consuls and gunboats at Chungking, Ichang, and Changsha, and noninterruption of business of French merchants; recommendation that business be resumed at these points; request for cooperation of Navy with commercial interests by returning gunboats to their customary stations. Instructions to repeat to Admiral Williams with inquiry for any further comments.</p>	299
May 23 (580)	<p><i>From the Minister in China (tel.)</i> Advice from commander in chief of the physical impracticability of removing Wanhsein stock under naval protection during summer season, and from Patrol commander that military situation makes evacuation of Ichang stock inadvisable; information that if the situation permits of the evacuation of Ichang stock, Gillespie and Sons will be given the same assistance accorded Standard Oil Co.</p>	300
May 25 (588)	<p><i>From the Minister in China (tel.)</i> From commander in chief: Reply from Patrol commander (extract printed), correcting information concerning reported presence of French consuls, businessmen, and gunboats at Changsha, Chungking, and Ichang; inadvisability of resumption of business by Standard Oil Co. above Hankow. From Hankow, May 23: Advice that French business interests are practically nil and that the gunboats are principally for evacuation of nationals; inadvisability of resumption of business at Ichang and Chungking by Standard Oil Co.; possibility that the military situation on the upper river will require evacuation of Standard Oil stock under naval protection; views of naval authorities concerning impracticability of naval protection to commercial vessels or the maintenance of naval vessels at Changsha and Ichang. Minister's concurrence in the views expressed.</p>	300
May 27 (593)	<p><i>From the Minister in China (tel.)</i> Information from Hankow that two Standard Oil vessels departed May 26 for Ichang, escorted by U. S. S. <i>Pigeon</i>, to evacuate oil stocks.</p>	302
June 3 (1071)	<p><i>From the Minister in China</i> Transmittal of copies of memoranda from British, French, Italian, and Japanese Legations showing measures taken for the evacuation of their nationals from various parts of China, and of copy of American Minister's memorandum on the same subject (text printed), transmitted to the interested missions on May 24.</p>	302
June 16 (646)	<p><i>From the Minister in China (tel.)</i> From Yunnanfu: Capture of the city by Hu Jo-yu, and his promise of protection to foreigners; inability of foreigners to leave because the railway has been cut. Request for authorization to instruct consul that, after advising Americans to withdraw from Yunnan and warning that if they remain they do so at their own risk, he should close consulate and proceed to Hongkong as soon as able to do so.</p>	304
June 16 (257)	<p><i>To the Minister in China (tel.)</i> Authorization to instruct consul at Yunnanfu as requested.</p>	304

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June 18 (656)	<i>From the Minister in China (tel.)</i> Instructions to consul at Yunnanfu, June 17, in accordance with Minister's telegram No. 646 of June 16.	304
June 25 (679)	<i>From the Minister in China (tel.)</i> To Hankow, June 21: Request for further information concerning official permission for British and Japanese women and children to return to Hankow. From Hankow, June 23: Information that British and Japanese women and children are being allowed to return; telegram to Shanghai (text printed), stating that no objection will be made to the return of women and children to Hankow if they wish to assume the risk. To Hankow, June 25: Approval of instructions to Shanghai; belief that consulates should discourage the premature return of nationals to places where they cannot be assured adequate protection.	305
June 27 (680)	<i>From the Minister in China (tel.)</i> From Hankow, June 25: Firing upon Yangtze Rapids vessel near Ichang, June 22, killing one Chinese passenger and injuring another; consul general's protest to Chinese authorities. Attempt by Yangtze Rapids Co. to resume operations between Ichang and Chungking in disregard of Minister's strong advice to the contrary.	306
June 27 (681)	<i>From the Minister in China (tel.)</i> From Yunnanfu, June 23: Belief that in view of improved conditions and in the interest of American prestige, the consulate should remain open and continue to be guided by the instructions quoted in Minister's telegram No. 560 of May 16. To Yunnanfu, June 27: Authorization to proceed as outlined.	306
July 21 (749)	<i>From the Minister in China (tel.)</i> Occupation of foreign buildings at Nanking, in spite of proclamations by Chiang and Wu against such action; seizure and looting of mission buildings elsewhere by advancing Nationalist troops.	307
July 25 (447)	<i>From the British Ambassador</i> Appreciation for cooperation rendered by U. S. S. <i>Paul Jones</i> in the protection and evacuation of foreigners at Chinkiang.	307
Aug. 15 (808)	<i>From the Chargé in China (tel.)</i> From Hankow, August 13: Suggestion that Department confer with organizations to discourage reported intentions of Americans to return to the interior. Chargé's concurrence in suggestion. To Canton, August 12: Instructions to continue to discourage the return of Americans to places where they may not be protected or readily evacuated.	308
Aug. 17 (812)	<i>From the Chargé in China (tel.)</i> Information that the Yangtze Rapids Co. is the only American business enterprise endeavoring to resume operations at interior points, and that no pressure is being brought on Hankow consulate general to resume business permanently at interior places.	309

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1927 Aug. 17 (317)	<i>To the Chargé in China (tel.)</i> Advice that the Department is informing the interested mission organizations in the sense of Chargé's telegram No. 808 of August 15; belief that business firms can be reached more advantageously through the Legation and consulates in China.	309
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July 26 (756)	<i>From the Minister in China (tel.)</i> From Shanghai, July 25: Receipt of communications from Nationalist Government at Nanking, transmitting official proclamation concerning increased tariff rates, abolition of likin, excise taxes, etc., and referring to application of customs revenues to foreign loans; intention to make no reply unless Legation instructs otherwise.	400

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EFFORTS OF THE UNITED STATES TO MEET SITUATION CREATED BY IMPOSITION IN CHINA OF TAXES IN CONFLICT WITH TREATY PROVISIONS—Continued

Date and number	Subject	Page
1927 July 27 (765)	<i>From the Minister in China (tel.)</i> From Shanghai: Summary of tariff proclamation, to be put into effect September 1; urgent suggestion that U. S. Government announce to all <i>de facto</i> Governments in China that it will not permit disregard of treaty rights.	400
July 28 (297)	<i>To the Minister in China (tel.)</i> Appreciation of seriousness of situation, and inquiry as to measures recommended in case U. S. Government makes the announcement and it fails to produce the desired result.	402
July 30 (776)	<i>From the Minister in China (tel.)</i> Recommendation of procedure outlined in Minister's telegram No. 773 of July 29. (For abstract of telegram No. 773, see page LXXI.)	402
Aug. 17 (816)	<i>From the Chargé in China (tel.)</i> From Shanghai: Desire of American, British, French, and Japanese consuls general for authority to initiate informal conversations with the local Chinese authorities to secure abandonment or at least postponement of the taxation proposals, and their proposal to test by court proceedings whether foreign-owned warehouses have the right to detain in bond cargo on which the legal duties have been tendered and refused; information that test suits are being filed in French and Japanese courts. To Shanghai: Tactical inadvisability of the proposed conversations; opinion that consul general should not encourage the taking of legal action by Americans. Chargé's request for instructions.	402
Aug. 18 (818)	<i>To the Chargé in China (tel.)</i> Approval of Chargé's action outlined in telegram No. 816 of August 17.	403
Aug. 18 (817)	<i>From the Chargé in China (tel.)</i> From Shanghai, August 17: Interview with Wu, at his request, which indicated an apparent weakening in determination to force through illegal taxes at Shanghai; inquiry whether to inform colleagues. To Shanghai, August 18: Opinion that no objection exists to informing colleagues, unless consul general promised Wu to the contrary.	401
Aug. 19 (819)	<i>From the Chargé in China (tel.)</i> Request from consul general at Shanghai, August 17, for authorization to protest individually against all the September 1st taxes, and Chargé's request for Department's approval. To Shanghai: Authorization to make protest, either individually or jointly with colleagues, if consul general considers such action would have a salutary effect.	405
Aug. 19 (820)	<i>To the Chargé in China (tel.)</i> Approval of reply to Shanghai set forth in telegram No. 819 of August 19.	405
Aug. 29 (838)	<i>From the Chargé in China (tel.)</i> From Shanghai, August 28: Information that Japanese and French courts granted injunctions prayed, and that Japanese godown keeper released wine upon court order; judgment of British court in favor of plaintiff and issuance of order for delivery of goods.	405

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Date and number	Subject	Page
1927 Aug. 31 (846)	<p><i>From the Chargé in China (tel.)</i></p> <p>From Shanghai, August 30: Issuance by Nanking authorities of order that holders of National Loan Bonds register them at office at Shanghai before September 30, subscribing at the same time for 10 percent of their value in salt surplus Treasury bonds, and providing that all unregistered bonds will be declared null and void; decision of consular body to protest.</p> <p>Concurrence in view that protest is necessary.</p>	406
Sept. 1 (331)	<p><i>To the Chargé in China (tel.)</i></p> <p>Information that U. S. Government does not admit efficacy of proposed action to render null and void bonds issued by Chinese Government, that it intends to insist that contractual rights of American bondholders be respected, but that bondholders will have to determine their own attitude toward notice requiring registration and subscription of salt bonds.</p>	407
Sept. 1 (850)	<p><i>From the Chargé in China (tel.)</i></p> <p>Receipt by consul at Shanghai of Foreign Ministry communication (text printed) advising that Nationalist Government has decided, in view of existing circumstances, to postpone temporarily the enforcement of the new taxation; like information from Canton and Swatow.</p>	407
Undated [Rec'd Sept. 10] (868)	<p><i>From the Chargé in China (tel.)</i></p> <p>From Shanghai, September 9: Information that the court decisions are being construed to apply to all nontreaty taxes; procedure followed by British and Japanese consulates general to release goods; request of Tobacco Products Co. that American consul general follow similar procedure and accept on deposit the treaty duty, wharfage and conservancy dues, and Washington surtaxes, in order that they may obtain delivery of goods, and consul general's refusal on the ground that such action would contravene Department's instructions; filing of suit in U. S. Court for China by American firm against American shipping company for release of cargo.</p>	408
Sept. 17	<p><i>To the Consul General at Shanghai (tel.)</i></p> <p>Instructions to advise whether other consulates are actually receiving treaty duties and other charges, and if so, the procedure for final accounting to Chinese Government; whether American consulate could feasibly perform such service for American citizens; and whether, since U. S. Government does not regard the Washington surtax as authorized, the British authorities would release American goods stored in British godowns on American consul's certificate that treaty duties, wharfage and conservancy dues had been deposited with him; inquiry as to status of the suit filed in American court.</p>	410
Sept. 20	<p><i>From the Consul General at Shanghai (tel.)</i></p> <p>Acceptance by the various consulates of import duties and other charges, and procedure for final accounting; feasibility of performing similar service for American citizens; information that British authorities would require deposit with the foreign consulates concerned of the Washington surtaxes in addition to the other charges; advice that case in American court has not yet been decided.</p> <p>(Repeated to the Legation.)</p>	410

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Date and number	Subject	Page
1927 Sept. 23	<i>To the Consul General at Shanghai (tel.)</i> Instructions to wire essential facts of the court case, and, after decision is rendered, to advise its effects and grounds on which predicated.	411
Sept. 24	<i>From the Consul General at Shanghai (tel.)</i> Essential facts of the case; court's decision, September 24, that it had no jurisdiction and that petition be dismissed, because the principal question involved is the violation of treaties, which is a purely political rather than a legal question, and that decision rests with Department. (Repeated to the Legation.)	412
Sept. 26	<i>From the Consul General at Shanghai (tel.)</i> Information that court's decision continues a handicap on American shipping which makes it unprofitable to operate at Shanghai; urgent suggestion that, in order to place Americans on an equal basis with other nationals, consul general be allowed to receive the treaty duties, to so advise the Customs, and to inform American shipping companies and warehousemen that the merchandise may be released. (Repeated to the Legation.)	414
Sept. 28 (893)	<i>From the Chargé in China (tel.)</i> Recommendation that Department approve suggestion of consul general at Shanghai or authorize some other equally effective steps for the relief of American business interests.	416
Sept. 28	<i>To the Consul General at Shanghai (tel.)</i> Request for further information as to the contingencies likely to arise if consul general's suggestion is put into effect, and whether American firm will appeal from court's decision.	416
Sept. 29 (896)	<i>From the Chargé in China (tel.)</i> Probable reintroduction of the one-half of 1 percent surtax on imports and exports for famine relief for 1 year; request for authorization to join colleagues in any proposal which may be approved by all powers concerned.	417
Sept. 30	<i>From the Consul General at Shanghai (tel.)</i> Advice that American shipping companies and warehousemen have agreed to release cargo in accordance with procedure outlined in consul general's telegram of September 26, and that American firm has appealed from court decision but will not pursue it if Department authorizes consul general to accept the duties. (Repeated to Legation.)	417
Oct. 1 (894)	<i>To the Chargé in China (tel.)</i> Authorization to interpose no objection to the proposed surtax mentioned in telegram No. 896 of September 29, provided other interested Legations take similar stand.	417

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Date and number	Subject	Page
1927 Oct. 1	<p><i>To the Consul General at Shanghai (tel.)</i></p> <p>Instructions that the Department will not object to the consul general's taking, on his own responsibility, the action suggested in his telegram of September 26, on condition that in each case the treaty duties are tendered to and refused by Customs, and that usual form of duty memorandum is delivered to him; instructions to telegraph confirmation of this understanding and preparation to undertake the action suggested.</p>	418
Oct. 3	<p><i>From the Consul General at Shanghai (tel.)</i></p> <p>Readiness to carry out recommendations of telegram of September 26, and information in this sense to American warehousemen and importers in American ships. (Repeated to the Legation.)</p>	418
Oct. 4	<p><i>From the Consul General at Shanghai (tel.)</i></p> <p>Advice from British consul general that American importers may obtain release of cargoes from British godowns on deposit with American consul general of only the treaty duty and wharfage and conservancy dues, and that they need not deposit the two surtaxes. (Repeated to the Legation.)</p>	418
Oct. 4	<p><i>To the Consul General at Shanghai (tel.)</i></p> <p>Advice that it is not clear whether consul general intends to accept from importers of goods stored in American godowns, surtaxes in addition to treaty duties; request for explanation.</p>	419
Oct. 5	<p><i>From the Consul General at Shanghai (tel.)</i></p> <p>Intention to accept only treaty duties of 5 percent in addition to wharfage and conservancy taxes.</p>	419
Oct. 7 (914)	<p><i>From the Chargé in China (tel.)</i></p> <p>From Canton, September 30: Announcement by local authorities of collection of 10 percent of the 2½ percent surtaxes originally assessed to pay Canton-Hongkong strikers but later abolished.</p> <p>Decision of British, French, and Japanese Ministers to instruct their consul generals to make strong representations against arbitrarily altering import tariff without prior consent of the powers, and Ministers' intention to recommend to their Governments that if the action taken is unsuccessful they should fall back on the procedure adopted at Shanghai; inability of American Minister to join in the instructions.</p> <p>To Canton, October 7: Authorization to join colleagues in protest against arbitrary alteration of import tariff, but not to join in any representations which would threaten or imply use of force by the United States in support of treaty rights; instructions to comment on feasibility of using consular clearance procedure at Canton.</p>	419
Oct. 11 (358)	<p><i>To the Chargé in China (tel.)</i></p> <p>Approval of instructions to Canton; inquiry whether the 2½ percent surtax is the so-called consumption and production tax imposed October 11, 1926, and inquiry as to date it was abolished; inquiry whether Department correctly understands tax to be 10 percent of 2½ percent, i. e., one-fourth of 1 percent.</p>	421

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Date and number	Subject	Page
1927 Oct. 11 (927)	<i>From the Chargé in China (tel.)</i> From Shanghai, October 11: Nanking Government's notification to tobacco companies directly that new regulations provide that tobacco, after paying Customs duty and 2½ percent surtax, will be taxed at 20 percent ad valorem, and be free from any other tax.	421
Oct. 13 (926)	<i>From the Chargé in China (tel.)</i> From Canton, October 12: Information that consul general joined colleagues in protest against imposition of new tax, that General Li plans to discontinue the tax, and that the consular procedure adopted at Shanghai would be impossible at Canton.	422
Oct. 20 (937)	<i>From the Chargé in China (tel.)</i> From Canton, October 14: Information that the surtax is the tax imposed in October 1926 and has never been abolished, and that the new tax is 10 percent of that tax, which in specific instances amounts to 2½, 5, and 7½ percent.	422
Oct. 22 (943)	<i>From the Chargé in China (tel.)</i> From Hankow, October 17: Request for instructions as to course to follow in the event Chinese authorities refuse to release goods because American concerns decline to pay the \$1 per unit special tax on kerosene and the 2½ and 5 percent surtaxes on liquors and tobacco. To Hankow, October 19: Request for opinion on practicability of applying Shanghai procedure. From Hankow, October 20: Unfeasibility of applying Shanghai procedure; understanding that it has resulted in litigation in Shanghai; request for specific instructions concerning the \$1 per unit special tax on kerosene. Chargé's request for Department's instruction.	423
Oct. 26 (369)	<i>To the Chargé in China (tel.)</i> Request for information concerning any litigation at Shanghai; suggestion that with regard to taxes imposed contrary to treaties, Chargé instruct consul general at Hankow in accordance with Department's telegram No. 270 of July 1; inability of Department to make a decision on the \$1 per unit special tax on kerosene without further information, particularly as to whether this tax is the result of private arrangement between the oil companies and local authorities.	424
Nov. 2 (968)	<i>From the Chargé in China (tel.)</i> From Shanghai: Advice that no litigation other than test cases has resulted from the clearance of vessels or the acceptance of the treaty import duties by consular officers.	424
Nov. 7 (979)	<i>From the Chargé in China (tel.)</i> From Hankow, November 5: Advice that the tax under discussion is a Nationalist Government tax collected on all oils moving out of Hankow installations, that Standard Oil Co. now seeks to obtain reduction of tax, that all companies ceased shipments on October 30 and intend to fight tax if companies can be induced to continue cessation of shipments; opinion that consulate can properly protest only the applicability of tax to transit pass shipments and bring informally before Chinese authorities injurious effect upon consumer of high oil taxation. Information to Hankow that the proposed action is approved.	425

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Date and number	Subject	Page
1927 Nov. 22 (1022)	<i>From the Chargé in China (tel.)</i> From Shanghai, November 18: Surtax bureau's announcement that 1¼ percent surtax on native goods imported to Shanghai from other Chinese ports amounting to one-half of the present coast-trade duty will be collected; desire of American Chamber of Commerce to pay recognized coast-trade duty on American-owned native products into consulate general or to be afforded some other form of relief; request for instructions. Chargé's request for instructions.	425
Nov. 28 (391)	<i>To the Chargé in China (tel.)</i> Belief that method of payment proposed by the American Chamber of Commerce could not be put into effect; request for additional information with respect to treaty rights involved.	426
Nov. 29 (1044)	<i>From the Chargé in China (tel.)</i> From Shanghai, November 17: Promulgation by Nanking Government of special kerosene-tax laws similar to those previously enforced by Canton and Hankow Governments; request for instructions. To Shanghai, November 19: Instructions to protest on general treaty grounds if tax is direct levy on American products in American hands or is in any way discriminatory, but if tax is indirect levy and affects only native dealers and consignees of American firms, to take no action and request further instructions. From Shanghai, November 22: Assurance by local authorities that tax is not in contravention of treaties because it is a consumption tax; comment that tax appears to be direct levy on American products but not discriminatory against American firms. Chargé's request for instructions.	426
Dec. 1 (1055)	<i>From the Chargé in China (tel.)</i> From Shanghai, November 29: Receipt of notification that, apart from transit dues, a surtax of an additional one-half of present customs transit dues will be collected on December 1; request for instructions. Chargé's suggestion to Department that protest be made against the application of Washington Conference principle in respect of customs dues.	427
Dec. 2	<i>From the Consul General at Shanghai (tel.)</i> Advice that Nationalist Government has now suspended collection of the 50 percent special tobacco tax, that American importers are clearing their cargo by the payment of the treaty duty and so-called Washington surtaxes, and that consul general is no longer accepting payment of the treaty duty on tobacco.	428
Dec. 2 (1061)	<i>From the Chargé in China (tel.)</i> From Shanghai, November 23: Establishment by Bureau of Duty Stamps for Kiangsu of office for the sale of stamps to be affixed to insurance policies, and consul general's advice to an American citizen that American companies must decide whether on grounds of expediency Chinese brokers and agents should be given permission to purchase and affix the stamps required. Information that Chargé approved consul general's statement and transmitted for his information an extract of a communication in similar vein from Senior Minister to Senior Consul at Chefoo (text printed).	428

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Date and number	Subject	Page
1927 Dec. 3 (1063)	<p><i>From the Chargé in China (tel.)</i></p> <p>From Shanghai, November 30: Advice that Standard Oil Co. plans to conclude direct agreement with Kerosene Tax Bureau of Nanking Government, providing that a 60-cent direct tax be substituted for the \$1 indirect tax, but that it is also preparing a formal protest at levy of direct tax on American goods in the hands of American company, for transmission through the consulate.</p> <p>Authorization to Shanghai to enter formal protest but to refrain from transmitting Standard Oil Co. protest until instructed by Department; suggestion that Department take the action recommended in Legation's telegram No. 131 of March 16, 1926 [i. e., to discuss with Standard Oil Co. inadvisability of having American interests undermine U. S. Government's efforts to prevent illegal taxation of American trade in China].</p>	429
Dec. 3 (396)	<p><i>To the Minister in China (tel.)</i></p> <p>Information that the tax referred to in Legation's telegram No. 1044 of November 29 is a violation of treaty when collected on American goods re-exported from one open port to another or shipped to the interior under transit pass, and instructions to be guided by Department's telegram No. 270 of July 1 with regard to question of protest.</p>	430
Dec. 5 (400)	<p><i>To the Minister in China (tel.)</i></p> <p>Information that surtax referred to in Legation's telegram No. 1055 of December 1 appears contrary to the British treaty of 1858 and Washington Conference treaty; instructions to be guided by Department's telegram No. 270 of July 1 with regard to question of protest.</p>	430
Dec. 6 (403)	<p><i>To the Minister in China (tel.)</i></p> <p>Information that Standard Oil Co. approached the Department on November 21 with regard to its proposed oil tax arrangement, that the Department has refrained from comment, considering it a matter for private negotiation, and that oil companies believe payment of tax under protest is in accord with policy suggested in Department's telegram No. 283 of July 12; belief that consul general should support company's protest if based on treaty infraction.</p>	430
Dec. 7	<p><i>From the Consul General at Shanghai (tel.)</i></p> <p>Information as requested in Department's telegram No. 391 of November 28 to the Legation; advice that the new surtax is in violation of treaty provisions, but that neither British nor other consular officers have yet protested.</p> <p>(Repeated to the Legation.)</p>	431
Dec. 12 (1080)	<p><i>From the Minister in China (tel.)</i></p> <p>From Shanghai, December 9 (apparently prior to receipt of Department's telegram No. 403 of December 6, repeated by the Legation): Information that revised draft of Standard Oil Co. agreement is less favorable than earlier agreement, and that consul general has protested petroleum tax along general lines but is holding company's protest in abeyance pending further instructions.</p>	432

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1927 Dec. 12 (1082)	<i>From the Minister in China (tel.)</i> From Shanghai, December 9: Protest by American Chamber of Commerce, December 2, against the surtax on grounds of contravention of treaties, requesting that protest be recorded with Minister and State Department at Washington, and suggesting that it be filed with local Commissioner of Foreign Affairs. To Shanghai, December 12: Transmittal of Department's telegram No. 400 of December 5 and reference to Department's telegram No. 270 of July 1, transmitted to consul general on December 8; information that the surtax will be discussed by the interested Ministers and that in the meantime consul general should withhold action.	432
Dec. 21	<i>From the Consul General at Shanghai (tel.)</i> Suspension by Nationalist Government of the 30 percent special tax on wines, and clearance of cargoes by payment of treaty duty and so-called Washington surtaxes; information that consul general is no longer accepting payment of treaty duty on wines. (Repeated to Legation.)	433

CONSULAR CLEARANCE OF FOREIGN VESSELS TO AVOID IMPOSITION BY CHINESE AUTHORITIES OF SURTAX ON TONNAGE IN EXCESS OF DUES FIXED BY TREATY

1927 May 13 (551)	<i>From the Minister in China (tel.)</i> Foreign Office desire that tonnage dues be increased to raise funds to cover Chinese diplomatic and consular expenses; inclination of the Ministers of treaty powers to recommend such an increase provided Peking regime can assure that collection by the Customs will not be used by Southern factions as an excuse for hostile action; request for authorization to assent to increase.	433
May 20 (227)	<i>To the Minister in China (tel.)</i> Desire of Department to support any measure calculated to promote unity in China; observation that, although the taxes are fixed by Sino-American treaty of 1858 and cannot legally be altered by the Department, on Minister's recommendation no objection will be raised to an additional tax.	434
July 8 (705)	<i>From the Minister in China (tel.)</i> From Shanghai, July 7: Announcement by Nanking Government that on July 11 it will collect surtax on tonnage of one-half of the existing Customs tonnage dues; information that consul general has protested on grounds of inadequate notice and absence of sanction by diplomatic body; recommendation that Customs be advised that American ships will pay only the existing treaty tonnage dues, and if such payment is refused, that they will proceed without Customs clearance; request for instructions. To Shanghai, July 8: Advice that protest should not be made without obtaining Legation's instructions.	434
July 9 (711)	<i>From the Minister in China (tel.)</i> Request for authorization to approve consul general's recommendation; information that the surtax will be discussed by the diplomatic body on July 11.	435

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Date and number	Subject	Page
1927 July 9 (280)	<p><i>To the Minister in China (tel.)</i> Authorization as requested in telegram No. 711 of July 9, if American shipping companies desire to follow that course; advice, however, that if they prefer to pay surtax under protest, the U. S. Government should not order them not to do so; unwillingness to use military or naval forces to protect shipping against excess taxes.</p>	435
July 11 (717)	<p><i>From the Minister in China (tel.)</i> To Shanghai: Opinion that the only defense against imposition of illegal tonnage dues will be of an economic character, and that plan set forth in telegram from Senior Minister to Senior Consul seems worthy of consideration. From the Senior Minister to the Senior Consul at Shanghai: Request that consular body consider possible economic measures, especially diplomatic body's suggestion that foreign trade be redistributed to ports where there would be no fear of illegal imposts.</p>	436
July 11 (718)	<p><i>From the Minister in China (tel.)</i> Information that Minister reserved U. S. Government's position at the diplomatic body meeting; identic message from the other Ministers to their consuls at Shanghai (text printed), instructing them to protest individually unless situation warrants a few days' delay in the expectation that the United States might join.</p>	437
July 12 (282)	<p><i>To the Minister in China (tel.)</i> Inability to understand necessity for reserving U. S. position at diplomatic body meeting, when Department's telegram No. 280 of July 9 advised its nonobjection to protest.</p>	438
July 15 (733)	<p><i>From the Minister in China (tel.)</i> From Shanghai, July 14, for the Senior Minister from the Senior Consul: Decision of consular body to send protest (text printed) which reserves right to take suitable steps to protect shipping from illegal levy; preliminary opinion that diversion of shipping would not be feasible but that if naval protection could be afforded at principal ports affected, tonnage dues might be at treaty rates with consulates and ships might proceed with consular instead of Customs clearance. From Shanghai, July 14: Information that consul general distinctly advised consular body that the United States would not use force.</p>	438
July 22 (751)	<p><i>From the Minister in China (tel.)</i> From Shanghai, July 21: Proposal by American shipping interests, July 13, that the first American vessel to arrive with tonnage dues to pay should tender dues at treaty rate, accompanying the tender with a letter from consul general to Customs protesting levy of surtax and objecting to payment; consent of consul general to this plan, although doubtful of its success; information that if plan fails, shipping interests will meet again to consider payment under protest. To Shanghai, July 22: Approval of consul general's attitude.</p>	439

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Date and number	Subject	Page
1927 July 28 (767)	<i>From the Minister in China (tel.)</i> From Shanghai, July 27: Report that proposed plan failed and that <i>Steel Voyager</i> , American vessel, paid surtax under protest; decision of shipping interests to ask Shipping Board for permission to clear <i>Patrick Henry</i> by consular clearance, and intention to make final decision after this attempt.	440
July 28 [29?] (771)	<i>From the Minister in China (tel.)</i> From Shanghai, July 28: Recommendation of American shipping interests that payment of the tonnage surtax be opposed, and their suggestions for accomplishing this intention.	440
July 29 (773)	<i>From the Minister in China (tel.)</i> From Shanghai, July 27, for the Senior Minister from the Senior Consul: Recommendation by consular body, excepting Danish and Japanese representatives, that Hankow, Nanking, and Peking authorities be notified that unless levying of extra-treaty taxes ceases, foreign merchants will be instructed to pay to consulates treaty taxes plus Washington and export surtaxes, that foreign ships and cargo will be protected by small guards at foreign-owned wharves outside Settlement limits and a patrol by naval armed launches; further recommendation that consular body be authorized to enter into informal conversations with Nanking authorities on the subject.	442
July 29 (774)	<i>From the Minister in China (tel.)</i> Approval by most of diplomatic body of recommendations of Shanghai consular body; American Minister's desire for instructions; opinion that there is no alternative to Shanghai consular body's recommendations except complete abandonment of treaty safeguards. (Repeated to Shanghai.)	443
July 30 (302)	<i>To the Minister in China (tel.)</i> Information that Department's telegram No. 280 of July 9 advised that the U. S. Government was not prepared to protect shipping companies against tonnage surtaxes by the use of military or naval forces; inability to proceed to the measures suggested in telegram from Shanghai repeated to Department in Legation's telegram No. 771.	444
Aug. 1 (780)	<i>From the Minister in China (tel.)</i> From Shanghai: Decision of local representative of Shipping Board to pay tonnage surtax on <i>Patrick Henry</i> under protest; information that American and French consuls called upon Commissioner of Foreign Affairs to press protest against tonnage surtaxes, and were informed that he and Foreign Minister were urging Finance Minister to abolish the surtax.	445
Aug. 1 (781)	<i>From the Minister in China (tel.)</i> Minister's inquiry, in view of receipt of telegram No. 302 of July 30, whether to await further word from Department before informing colleagues that he cannot participate in action they may take to resist the imposition of extra-treaty dues and duties.	446

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CONSULAR CLEARANCE OF FOREIGN VESSELS TO AVOID IMPOSITION BY CHINESE AUTHORITIES OF SURTAX ON TONNAGE IN EXCESS OF DUES FIXED BY TREATY—Continued

Date and number	Subject	Page
1927 Aug. 2 (304)	<i>To the Minister in China (tel.)</i> Advice that the Department's instructions do not preclude Minister's discussing any form of joint action proposed by colleagues, provided use of military or naval force is not involved; authorization to inform colleagues at own discretion.	446
Aug. 2 (785)	<i>From the Minister in China (tel.)</i> From Shanghai, August 1: Clearance of French steamer under consular clearance after tender of the legal dues was refused by Customs and dues deposited with French consul general; informal advice from Superintendent of Customs, July 30, that tonnage surtax will be suspended shortly.	446
Aug. 8 (795)	<i>From the Minister in China (tel.)</i> From Shanghai, August 6: Announcement that after August 8 the amount of tonnage surtax will be reduced to one-half of the present surtax levy; consular clearance of two more French vessels, with no reprisals by Chinese or necessity for use of force.	447
Aug. 10 (801)	<i>From the Minister in China (tel.)</i> From Shanghai, August 9: Request for instructions in regard to Dollar Co.'s request for clearance of <i>President Taft</i> and other ocean-going vessels with consular clearance only. To Shanghai, August 10: Instructions to explain to company the limit upon consul general's ability to extend assistance, that company cannot expect the protection of American military or naval forces, and that company must assume responsibility for any untoward results of its decision.	447
Aug. 11 (814)	<i>To the Minister in China (tel.)</i> Request by Robert Dollar Co., August 9, for clearance of <i>President Taft</i> after deposit of normal tonnage dues if Customs should refuse to accept dues without surtax; Department's reply (text printed), explaining situation at Shanghai, and suggesting that they may care to consider desirability of paying the surtaxes under protest, at least for the present. (Instructions to communicate this information to consul general at Shanghai.)	449
Aug. 12 (805)	<i>From the Chargé in China (tel.)</i> From the Senior Minister to the Senior Consul at Shanghai, July 29: Request to be informed whether consular body believes consulates could carry out effectively the duties which would be imposed on them, and whether military and naval commanders believe that necessary protection outside Settlement is a practical proposal. To Shanghai, August 6: Instructions to consul general not to lead colleagues to believe that he could be associated in any plan which would in any way involve use of American military or naval forces. From the Senior Consul at Shanghai to the Senior Minister, August 9: Affirmative answer of consular body to the two questions in Senior Minister's telegram of July 29; affirmative answer of foreign naval authorities and senior American naval officers as to practicability of protection outside Settlement.	450

CHINA

CONSULAR CLEARANCE OF FOREIGN VESSELS TO AVOID IMPOSITION BY CHINESE AUTHORITIES OF SURTAX ON TONNAGE IN EXCESS OF DUES FIXED BY TREATY—Continued

Date and number	Subject	Page
1927		
Aug. 14 (806)	<i>From the Chargé in China (tel.)</i> From Shanghai: Clearance of <i>President Taft</i> at request of owners, on consular clearance only.	451
Aug. 16 (316)	<i>To the Chargé in China (tel.)</i> Inquiry, because treaty of 1858 makes consul responsible to Chinese authorities for duties and tonnage dues, as to what steps American consul general took to protect himself and U. S. Government before granting consular clearance to the <i>Taft</i> .	452
Aug. 16 (811)	<i>From the Chargé in China (tel.)</i> From Shanghai: Information that additional consular clearances have been requested by American shipping interests; urgent request for instructions. Minister's request that Department send direct instructions to Shanghai and repeat to Legation.	452
Aug. 17	<i>To the Consul General at Shanghai (tel.)</i> Instructions that in any case where consul general has satisfied himself that the treaty duties have been paid, that the shipowner has made a legal tender of treaty tonnage dues which has been refused, and that the company desires to take the risk and will adequately guarantee him against any claim for the dues, no objection will be made to the issuance of consular clearance. (Instructions to repeat to Legation at Peking.)	453
Aug. 26 (832)	<i>From the Chargé in China (tel.)</i> From Shanghai: Information that Dollar Co. gave a written guarantee safeguarding U. S. Government and consul general from any liability under treaty of 1858 arising out of the clearance of vessels by consular clearance only, and that <i>President McKinley</i> has been cleared under this general guarantee.	454
Aug. 26	<i>To the Consul General at Shanghai (tel.)</i> Information that Shanghai office of American firm has advised that the S. S. <i>Mobile City</i> was cleared without payment of illegal surtax tonnage dues, on the advice of American consul.	454
Aug. 27	<i>From the Consul General at Shanghai (tel.)</i> Advice that the report in Department's telegram of August 26 is incorrect, that the <i>Mobile City</i> was cleared only upon request of Shanghai branch of company, after the instructions of Department's telegram of August 17 had been complied with.	455
Aug. 31	<i>From the Consul General at Shanghai (tel.)</i> Report in vernacular press, confirmed verbally by Commissioner of Foreign Affairs, that surtax tonnage dues will be abolished September 1. (Repeated to the Legation.)	455
Sept. 2	<i>From the Consul General at Shanghai (tel.)</i> Clearance of <i>President McKinley</i> by the Customs, September 1, on payment of treaty tonnage dues and without payment of the tonnage surtax, and issuance by Customs of the usual 4-months' tonnage-dues certificate, dating from August 19, the date of last entry of vessel, when it was cleared by consular clearance only. (Repeated to the Legation.)	456

CHINA

CONSULAR CLEARANCE OF FOREIGN VESSELS TO AVOID IMPOSITION BY CHINESE
AUTHORITIES OF SURTAX ON TONNAGE IN EXCESS OF DUES FIXED BY
TREATY—Continued

Date and number	Subject	Page
1927 Oct. 5 (912)	<i>From the Consul General at Shanghai (tel.)</i> From Shanghai: Offer by Customs to issue new tonnage-dues certificates for 4 months from date of consular clearance, and opinion of consul general and American shipowners that arrangement is satisfactory; information that on October 6 the consular body will discuss question of deducting from tonnage dues the amount of tonnage surtax paid under protest, but that American consul general is not in favor of the proposal.	456
Dec. 17 (416)	<i>To the Minister in China (tel.)</i> Inquiry as to what disposition has been made of tonnage dues deposited with consulate general at Shanghai.	457
Dec. 23 (1119)	<i>From the Minister in China (tel.)</i> From Shanghai, December 21: Information that all certified checks covering tonnage dues have been deposited with Customs or returned to the shipping company upon issuance and presentation to consul general of tonnage-dues certificate expiring 4 months after clearance of the vessel by consular clearance only.	457

DISINCLINATION OF THE UNITED STATES TO INTERVENE IN MATTERS RELATING
TO THE ADMINISTRATION OF THE CHINESE MARITIME CUSTOMS

1927 Feb. 1 (104)	<i>From the Minister in China (tel.)</i> Information that presidential mandate of January 31 dismissed Sir Francis Aglen as Inspector General of Customs, appointed A. H. F. Edwardes as Acting Inspector General, and made other changes in the administration of the Chinese Maritime Customs and the Revenue Council.	457
Feb. 5 (114)	<i>From the Minister in China (tel.)</i> Explanation by Aglen to interested diplomatic representatives as to circumstances of his dismissal; readiness of British, French, Italian, and Japanese Ministers to cooperate in representations to Peking authorities against Aglen's dismissal; American Minister's reservation of judgment for time being; draft memorandum of representations (text printed).	458
Feb. 7 (50)	<i>To the Minister in China (tel.)</i> Instructions not to participate in representations described in telegram No. 114 of February 5.	460
Feb. 8 (122)	<i>From the Minister in China (tel.)</i> Interview, February 7, of American, British, French, Italian, and Japanese Ministers with Peking Foreign Minister, in which they expressed apprehension over inevitable break-up of Customs if Government persisted in present course; surmise that he realizes folly of the action taken and welcomes representations as a basis for asking reconsideration. Information that Department's telegram No. 50 of February 7 has just been received; Minister's regret that he has taken action which proves not to be in accord with Department's desire.	461

CHINA

DISINCLINATION OF THE UNITED STATES TO INTERVENE IN MATTERS RELATING TO
THE ADMINISTRATION OF THE CHINESE MARITIME CUSTOMS—Continued

Date and number	Subject	Page
1927 Feb. 10 (130)	<i>From the Minister in China (tel.)</i> Report that negotiations among British Minister, Aglen, and Government intermediary have resulted in solution whereby Government will not enforce the order requiring the Customs to collect surtaxes, that Aglen will continue nominally as Inspector General for a year on home leave, and that Edwardes will take charge as Acting Inspector General with responsibility for service of existing loans only; possibility that Nationalists will refuse to recognize Aglen's successor and will take over customhouses in their territory.	462
Feb. 14 (139)	<i>From the Minister in China (tel.)</i> Information that Aglen made over charge of Customs to Edwardes on February 11; appointment by Nationalist Government of a commission to report on situation created by Aglen's dismissal; likelihood that Hankow authorities will refuse to recognize change of Inspector General; Nationalist threat to take over certain Salt Administration offices.	463
Feb. 18 (150)	<i>From the Minister in China (tel.)</i> From Hankow, February 17: Nationalist demand that building occupied by Salt Gabelle be vacated for use of Foreign Ministry.	464
Feb. 19 (156)	<i>From the Minister in China (tel.)</i> Edwardes' belief that his appointment of a Japanese as chief secretary of Customs is a just move and one likely to save the organization from immediate disruption; Aglen's personal endeavor to secure acquiescence of Foreign Minister of Nationalist Government at Hankow to Edwardes' acceptance of office.	464
Feb. 21 (935)	<i>From the Minister in China</i> Observations concerning increased Japanese participation in Customs.	464
June 10 (635)	<i>From the Minister in China (tel.)</i> Information that Nanking authorities advised British Minister that they intend to appoint their own Inspector General of Customs for territory under Nationalist control, who will be given <i>sub rosa</i> authorization to maintain relations with Edwardes, and that the revenues collected will bear their share of existing indemnity and loan charges upon Customs revenues; British Minister's emphasis to Nanking authorities regarding inexpediency of such action; request for instructions as to whether to join in representations.	465
June 13 (252)	<i>To the Minister in China (tel.)</i> Instructions not to join in any representations in regard to the integrity of the Maritime Customs Administration.	466

CHINA

DECISION OF AMERICAN GOVERNMENT NOT TO EXERCISE RIGHT TO HAVE AN OFFICIAL WATCH THE PROCEEDINGS IN SUITS BY AMERICAN PLAINTIFFS AGAINST CHINESE DEFENDANTS

Date and number	Subject	Page
1927 Feb. 11 (133)	<i>From the Minister in China (tel.)</i> From Hankow, February 10: Passage by Nationalist Government of resolution (text printed) providing that trial of mixed cases be removed from Hsiakow's court to Hankow city court, and that the Peking procedure be disapproved and witnessing of trial by consular representative be rejected; request of Hsiakow magistrate that no action be taken until he has communicated with American consul general directly.	466
Feb. 19 (159)	<i>From the Minister in China (tel.)</i> From Hankow, February 16: Information that Hsiakow magistrate has transferred cases to Hankow city court, thus arbitrarily depriving Americans of a treaty right; request for instructions. Opinion that if the United States is not to protest against repudiation of treaty rights, the preferable course would be to advise its consuls that, pending a readjustment of treaty relations, it does not intend, except in unusual circumstances, to exercise option of sending consular deputy to watch cases brought by American citizens against Chinese defendants; request for instructions.	467
Feb. 23 (70)	<i>To the Minister in China (tel.)</i> Approval of procedure outlined; authorization to instruct consuls accordingly, requesting them to inform local Chinese authorities; authorization to advise colleagues of U. S. Government's decision.	468
Mar. 12 (212)	<i>From the Minister in China (tel.)</i> Information that appropriate instructions have been issued to consuls, and that Minister's colleagues have been advised in a note (text printed). From Hankow, March 10: Appointment by Nationalist Government of a committee to investigate and evolve a plan for the immediate establishment of a modern Chinese court to try cases in which foreigners are plaintiffs against Chinese.	468

EMBARGO BY THE CHINESE NATIONALIST GOVERNMENT AT NANKING ON THE SHIPMENT OF SILVER AND GOLD

1927 July 23 (753)	<i>From the Minister in China (tel.)</i> Information that Nationalist Government at Nanking has placed restrictions on export of silver and gold from Shanghai; desire of National City Bank at Shanghai that it be permitted to ship silver to Tientsin branch on American warship to avoid heavy premium on exchange between Shanghai and the North and to enable Tientsin branch to pay American forces; request for authorization to instruct consul general at Shanghai to arrange shipment on naval vessel of silver needed by Tientsin branch to pay U. S. disbursements.	469
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CHINA

EMBARGO BY THE CHINESE NATIONALIST GOVERNMENT AT NANKING ON THE
SHIPMENT OF SILVER AND GOLD—Continued

Date and number	Subject	Page
1927 July 25 (294)	<i>To the Minister in China (tel.)</i> Unwillingness of Department to approve transportation of silver by American naval vessels merely to reduce premiums on exchange; belief that such approval is not necessary for the purpose of facilitating payment of forces at Tientsin, as money can be obtained and transported by naval vessels without utilizing facilities offered by the bank.	471
Nov. 19 (1009)	<i>From the Chargé in China (tel.)</i> From the commander in chief, U. S. Asiatic Fleet, November 16: Information that, after consultation with consul general, a shipment of silver to Hankow by destroyer was made at urgent request of National City Bank.	471
Nov. 25 (103)	<i>From the Chargé in China (tel.)</i> From Shanghai, November 22: Explanation that consul general followed instructions in supporting National City Bank's application to Superintendent of Customs for shipment of silver to Hankow, and that because Superintendent withheld official action and held himself incommunicado, bank requested direct assistance from Admiral Bristol, who notified consul general of his decision to render desired assistance.	471

CONTINUED NEGOTIATIONS CONCERNING THE FEDERAL TELEGRAPH COMPANY'S
CONTRACT WITH THE CHINESE GOVERNMENT

1927 Jan. 12 (24)	<i>From the Minister in China (tel.)</i> Probability that Chinese will accept invitation to conference in New York but that delay in appointment of a representative has been caused by disorganization in Ministry of Communications and possibly by fear or unwillingness to commit themselves before Japanese have indicated willingness to participate.	472
Apr. 23 (182)	<i>To the Minister in China (tel.)</i> Information that Japanese Embassy is being requested to reply to Department's memorandum of October 28, 1926; instructions to report present situation and prospects for action by Peking authorities.	472
May 2 (202)	<i>To the Minister in China (tel.)</i> Inability of Radio Corporation of America to consider suggestion of T. Y. Tsiang, Director General of Telegraphs, Peking, concerning new arrangements for short-wave stations, in view of recommendations of Department's memorandum of October 28, 1926, and the lack of answer thereto by Chinese and Japanese Governments. Radio Corporation to Director General of Telegraphs: Acknowledgment of communication.	473

CHINA

CONTINUED NEGOTIATIONS CONCERNING THE FEDERAL TELEGRAPH COMPANY'S CONTRACT WITH THE CHINESE GOVERNMENT—Continued

Date and number	Subject	Page
1927 May 6 (524)	<p><i>From the Minister in China (tel.)</i></p> <p>Information from Director General of Telegraphs that in December 1926 Chinese Ministry of Communications ascertained that Japanese Government disapproved participation of Mitsui Company in the New York conference, that Japanese Government received favorably the proposals he made to Radio Corporation, and that Japanese are awaiting indication of Radio Corporation's attitude; assumption of Director General that his proposal is now the only one open for consideration and that if Radio Corporation accepts, details could be worked out at a conference in Peking.</p>	473
July 18 (744)	<p><i>From the Minister in China (tel.)</i></p> <p>Director General of Telegraphs to Radio Corporation: Opinion that tripartite conference suggested by Radio Corporation can have no result unless some understanding is reached previously between Chinese Government, Radio Corporation, and the Japanese interest, and information that this is cause of delay in replying to Secretary of State's memorandum of October 1926; mention of additional terms to be added to Director General's proposals.</p>	474
July 29 (301)	<p><i>To the Minister in China (tel.)</i></p> <p>Radio Corporation to Director General of Telegraphs: Inability to see reason for attempting to reach understanding by an agreement before the conference; suggestion that a reply from Chinese and Japanese Governments to State Department's invitation of October 1926 should precede any further attempts to negotiate the matter.</p>	475
Oct. 3	<p><i>To the President of the Radio Corporation of America</i></p> <p>Information that the Assistant Secretary of State had declared, in reply to an inquiry by the Japanese Ambassador, that, while a proposal had been made directly to Radio Corporation by Chinese Government, there was no proposal of Chinese Government before the U. S. Government, and that so far as the U. S. Government was concerned the matter waited upon replies from Chinese Ministry of Communications and Japanese company to Radio Corporation's invitation to a conference in New York.</p>	475
Oct. 20	<p><i>Memorandum by the Assistant Secretary of State</i></p> <p>Conversation in which the Secretary of State informed the Japanese Ambassador that the Radio Corporation was anxious that representatives of the Chinese Telegraph Administration and Mitsui Company attending Radio Conference in Washington be authorized to meet with Radio Corporation representative; Assistant Secretary of State's expression of opinion that when the private interests had agreed on a plan, it would be appropriate for the U. S., Chinese, and Japanese Governments to consider whether they would or would not approve of the plan agreed upon, U. S. Government's interest being limited to seeing radio communications established and preventing monopoly.</p>	476

CHINA

CONTINUED NEGOTIATIONS CONCERNING THE FEDERAL TELEGRAPH COMPANY'S CONTRACT WITH THE CHINESE GOVERNMENT—Continued

Date and number	Subject	Page
1927 Nov. 29 (130)	<i>From the Ambassador in Japan (tel.)</i> From the American Minister to China, enroute to Peking: Receipt of confidential memorandum from Vice Minister Debuchi, outlining a basis of negotiation among the American and Japanese business interests and the Chinese Ministry of Communications (text printed); Debuchi's suggestion that after agreement of the Governments concerned, the business interests confer with Ministry of Communications at Peking or Tokyo.	478
Dec. 3	<i>From the British Embassy</i> Inquiry whether the U. S. Government is now prepared to endorse a wireless consortium on the part of the various powers concerned.	479
Dec. 19	<i>Memorandum by the Assistant Secretary of State</i> Conversation in which the Japanese Ambassador was advised that Vice Minister Debuchi's memorandum would be referred to the Radio Corporation for comment, and that Department would reply to British Ambassador's inquiry with an answer along the lines of reply to Japanese of October 1926; explanation that Department felt that consortium proposal would probably be unacceptable to the Chinese, and if so, it would be worthless.	480

CONSIDERATION OF INFORMAL PROPOSAL FOR LOAN BY AMERICAN BANKERS TO THE SOUTH MANCHURIA RAILWAY

1927 Nov. 19 (1008)	<i>From the Chargé in China (tel.)</i> Inquiry by Peking generalissimo's headquarters concerning object of recent trip to Japan by Thomas W. Lamont of J. P. Morgan & Co., rumored to be for the purpose of negotiating a loan to Japanese interests for use in developing Manchuria; apprehension of Kuomintang leaders at Shanghai that a loan by American bankers to Japanese interests who would advance funds to South Manchuria Railway would strengthen Japanese grip in Manchuria; request for information concerning Lamont's trip. (Repeated to Tokyo.)	482
Nov. 19 (84)	<i>To the Ambassador in Japan (tel.)</i> Information that Department has received an informal inquiry from Lamont whether objection would be made to loan to South Manchuria Railway, the loan to be guaranteed by the Japanese Government; feeling of Department that it would be inadvisable to pass such a loan, for political reasons; request for opinion as to Japanese Government's reaction if loan should be refused; request for information concerning Lamont's conversations in Tokyo.	483
Nov. 21 (385)	<i>To the Chargé in China (tel.)</i> Information concerning Lamont's trip to Japan and his subsequent inquiry concerning any objection to a loan to South Manchuria Railway; request for opinion as to reaction in China if such a loan is consummated.	483

CHINA

CONSIDERATION OF INFORMAL PROPOSAL FOR LOAN BY AMERICAN BANKERS TO
THE SOUTH MANCHURIA RAILWAY—Continued

Date and number	Subject	Page
1927 Nov. 21 (128)	<i>From the Ambassador in Japan (tel.)</i> Belief that Department's refusal to pass loan would be viewed by Japanese Government as evidence of distrust of Japanese intentions in Manchuria and lack of faith in her promises to respect China's territorial integrity, that if financial assistance is refused cooperation between Japan and Soviet Union will result, and that the time has come to act toward Japanese in a new light; information that Lamont's conversations were with men representing important financial interests.	484
Nov. 25 (1029)	<i>From the Chargé in China (tel.)</i> Belief that approval of loan would cause Chinese to feel that American Government was favoring a direct loan to Japanese Government which would assist it in exploiting Manchuria in a way calculated to be subversive of the sovereignty and territorial integrity of China, and that serious consequences would be likely.	487
Dec. 3 (1066)	<i>From the Chargé in China (tel.)</i> From the commander in chief, U. S. Asiatic Fleet, December 2: Apprehension of Kuomintang circles over proposed loan; belief that consummation thereof would create difficult situation for Americans in the Far East.	489
Dec. 3 (397)	<i>To the Chargé in China (tel.)</i> Information that there have been no further developments in the loan matter, that the bankers have not yet presented any definite proposal for Department's decision, and that no press statement has been made on subject; instructions not to comment other than to say that it is understood that no definite proposal has been presented to Department.	489
Dec. 5	<i>From Mr. Frank W. Lee, Representative of the Chinese Nationalist Government (tel.)</i> Telegram of December 1 from the Foreign Minister of Nationalist Government at Nanking (text printed), expressing hope that American Government will not permit consummation of the proposed loan.	490
Dec. 9 (132)	<i>From the Ambassador in Japan (tel.)</i> Concern of Japanese over rumor that bankers have refused to make the loan, and that the responsibility lies with Department of State; request for summary of developments and statement to be given to press if deemed advisable.	491
Dec. 10 (87)	<i>To the Ambassador in Japan (tel.)</i> Similar information as in telegram No. 397 of December 3 to the Chargé in China; informal intimation to Department that bankers have decided, in view of unfavorable market for loan in the United States and the fact that it is so entangled with Far Eastern politics, to postpone any consideration of loan; instructions to refrain from commenting on matter except to state understanding that Department has received no definite proposal.	492

CHINA

ARRANGEMENT FOR PAYMENT BY AMERICAN CITIZENS AND FIRMS OF VOLUNTARY CONTRIBUTIONS IN LIEU OF TAXES TO THE HARBIN MUNICIPALITY

Date and number	Subject	Page
1926 Oct. 7 (773)	<i>From the Chargé in China</i> Recommendation that consul at Harbin be authorized to advise Chinese authorities that the new municipal regulations are unacceptable. Suggested courses of action.	492
1927 Jan. 28 (92)	<i>From the Minister in China (tel.)</i> Request for authority to approve recommendation by consul at Harbin that American citizens and firms be requested to pay through consulate voluntary contributions at the same rates as those of taxes levied on nationals whose governments adhered to the old 1914 municipal agreement.	494
Feb. 4 (48)	<i>To the Minister in China (tel.)</i> Authority as requested in telegram No. 92 of January 28.	494
Mar. 1 (1448)	<i>From the Consul at Harbin to the Minister in China</i> Assent of American firms to plan of making voluntary contributions equal to taxes paid by other nationals enjoying extra-territorial rights, and desire of all save two to make payment through the consulate; favorable attitude of Chinese Commissioner of Foreign Affairs; information that amount of each firm's contribution is now being figured.	495
Mar. 29 (470)	<i>To the Minister in China</i> Review of Department's attitude toward Harbin municipality.	496
Aug. 31 (1175)	<i>From the Chargé in China</i> Opinion of consul at Harbin that because present procedure of making voluntary contributions through the consulate is irritating to Chinese authorities, contributions should be made directly to municipality; expression to consul of opinion that present procedure should be continued for the time being.	497
Nov. 7 (675)	<i>To the Chargé in China</i> Approval of instruction to consul at Harbin that present procedure be continued for the time being.	498

COSTA RICA

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND COSTA RICA

1926 July 12 (13)	<i>To the Chargé in Costa Rica (tel.)</i> Instructions to ascertain whether Costa Rica is disposed to enter into negotiations for a treaty of friendship, commerce and consular rights.	500
Aug. 18 (790)	<i>From the Minister in Costa Rica</i> Advisability of awaiting a more opportune time to propose negotiation of a treaty; reasons on which this conclusion is based; opinion that the unfavorable conditions are temporary.	500
1927 July 5 (394)	<i>To the Minister in Costa Rica</i> Instructions to take up treaty matter with appropriate authorities if in Minister's opinion the situation has changed since August 1926 and is now favorable to the negotiation of a treaty.	501

COSTA RICA

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND COSTA RICA—Continued

Date and number	Subject	Page
1927 Sept. 16 (1038)	<i>From the Minister in Costa Rica</i> Opinion that the present moment is not opportune; political reasons for this condition of affairs. (Footnote: Information that apparently no further efforts were made to enter into treaty negotiations with Costa Rica.)	502

CUBA

PROPOSAL BY CUBA THAT THE COMMERCIAL CONVENTION BETWEEN THE UNITED STATES AND CUBA, SIGNED DECEMBER 11, 1902, BE REVISED

1927 Apr. 11	<i>From the Cuban Ambassador</i> Proposal that the United States and Cuba begin a joint study of the commercial reciprocity treaty of 1902, with a view to its revision.	503
Oct. 28 (83)	<i>To the Chargé in Cuba (tel.)</i> Instructions to furnish Department with text of communication sent by Ambassador Crowder to the Cuban Government on November 17, 1926, concerning the reciprocity treaty.	504
Oct. 29 (2333)	<i>From the Chargé in Cuba</i> Ambassador Crowder's informal note of November 17, 1926, to President Machado (text printed), which advised that the U. S. Tariff Commission study of treaty of 1902 had been furnished to Cuban Foreign Office. Letter from the Ambassador to the Cuban Subsecretary of State, November 16, 1926 (text printed), with which had been transmitted translation of the Tariff Commission study.	504
Dec. 2	<i>Memorandum by the Secretary of State</i> Conversation with the Cuban Ambassador, in which the Ambassador outlined in a general way what his Government desired in the way of revision of the treaty, and the Secretary promised to investigate the matter carefully; table showing trade of the United States with Cuba (text printed).	506
Dec. 15	<i>From the Cuban Ambassador</i> Outline of two alternative proposals which might serve as a basis for the study of a new commercial treaty between Cuba and the United States.	508
Dec. 23 (1)	<i>From the Ambassador in Cuba</i> Ambassador Judah's remarks at the presentation of his letter of credence to President Machado and of President Machado's reply (texts printed), in which reference is made to the possible revision of Cuban-American mercantile relations.	516
1928 Jan. 12	<i>To the Cuban Chargé</i> Advice that U. S. Government's views on the proposals contained in the Cuban Ambassador's note of December 15, 1927, will be communicated as soon as the necessary study of the proposals shall have been completed.	518

CUBA

PASSAGE OF CUBAN CONSTITUTIONAL AMENDMENT BILL

Date and number	Subject	Page
1927 May 5 (2017)	<i>From the Ambassador in Cuba</i> Comments, at the Department's request, on memorandum of conversations between the Chief of the Division of Latin American Affairs and President Machado of Cuba, April 20-22, with particular reference to the provisions of the pending bill to amend the Cuban Constitution.	519
May 13 (970)	<i>To the Ambassador in Cuba</i> Instructions to report occasionally on legality of procedure being followed in connection with consideration of the Constitutional amendments, election of Constitutional Assembly, etc., and whether a condition exists which gives rise to possibility of disorders or revolution; authorization, if consulted by President Machado with regard to the proposed amendments and procedure being followed, to discuss the matters orally and informally, explaining own views, which are understood to agree with those of the Department.	522
June 13 (2112)	<i>From the Chargé in Cuba</i> Discussion among Ambassador, President Machado, and other Cuban officials, at President Machado's request, of matters pertaining to the Constitutional amendments; information that Senate committee has drafted a new form of the bill, which Chargé believes to be much more acceptable than the old measure.	523
June 30 (2148)	<i>From the Chargé in Cuba</i> Transmittal of Constitutional amendment bill as published in <i>Gaceta Oficial</i> of June 21.	525

VISIT OF PRESIDENT MACHADO TO THE UNITED STATES

1927 Mar. 26	<i>To the Cuban Ambassador</i> Acknowledgment of advice that date of President Machado's trip to the United States has been fixed for April 20; assurance that he will be accorded a sincere welcome by U. S. Government and people.	525
Apr. 23	<i>Memorandum by the Chief of the Division of Latin American Affairs</i> Report of conversation between President Coolidge and President Machado, at which the latter brought up discussion of various problems, including Cuban sugar in American market, Constitutional reforms pending before Cuban Congress, and modification of the Platt Amendment.	525
May 7	<i>From the Cuban Secretary of State</i> Expression of appreciation of the Cuban Government and people for the courtesies extended to President Machado during his visit to the United States.	528

CUBA

CONSENT OF THE UNITED STATES GOVERNMENT TO CONVERSION OF \$9,000,000
OF THE CUBAN PUBLIC DEBT

Date and number	Subject	Page
1927 June 25	<i>To the Cuban Ambassador</i> Information that the U. S. Government has offered no objection to a proposed loan by J. P. Morgan & Co. to the Cuban Government for the purpose of funding 9 million dollars of the Cuban public debt. (Footnote: Information that telegram No. 76 of July 1 from the Chargé in Cuba advised that the Cuban Government had sold to J. P. Morgan & Co. 9 million dollars of 10-year serial 5½ percent bonds.)	528

SUGGESTION OF CUBA THAT A METEOROLOGICAL STATION BE ERECTED ON SWAN
ISLAND JOINTLY BY THE UNITED STATES, CUBA, GREAT BRITAIN, AND
MEXICO

1927 Oct. 20 (2316)	<i>From the Chargé in Cuba</i> Memorandum from the Cuban Department of State (text printed), suggesting that a diplomatic agreement be entered into providing for joint maintenance by the United States, Cuba, Great Britain, and Mexico of a meteorological station on Swan Island, the expenses to be shared equally by the four Governments and the execution of the agreement to be left to the British Government.	530
Nov. 18 (1107)	<i>To the Chargé in Cuba</i> Information that in an Opinion dated June 24, 1925 (text printed), the U. S. Attorney General advised that dominion of the United States was extended over the Swan Islands by the President, as evidenced by a certificate of Secretary of State Seward, dated February 11, 1863, and that U. S. sovereignty attached to the islands from that date; instructions to hand copy of the Opinion to the Cuban Government, advising that a reply will be made to the memorandum of October 20.	531

CZECHOSLOVAKIA

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN
THE UNITED STATES AND CZECHOSLOVAKIA

1927 Mar. 22 (8)	<i>To the Chargé in Czechoslovakia (tel.)</i> Instructions to ascertain whether Czechoslovakia is now disposed to enter into negotiations for a treaty of friendship, commerce and consular rights.	539
Apr. 1 (12)	<i>From the Chargé in Czechoslovakia (tel.)</i> Information that Czechoslovakia is willing to begin negotiations; that upon initiative of Czechoslovak Minister at Washington, a draft has been prepared along lines of American-German treaty of December 8, 1923; and that an official note has been promised shortly.	540

CZECHOSLOVAKIA

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND CZECHOSLOVAKIA—Continued

Date and number	Subject	Page
1927		
Apr. 1 (9)	<i>To the Chargé in Czechoslovakia (tel.)</i> Opinion that uniformity in treaties of the United States can best be attained by beginning negotiations on a draft to be submitted by the U. S. Government; instructions to endeavor to obtain consent to this procedure.	540
Apr. 18 (15)	<i>From the Minister in Czechoslovakia (tel.)</i> Receipt of Foreign Office note stating willingness to negotiate a treaty and to learn U. S. point of view on the subject.	540
Apr. 20 (1265)	<i>From the Minister in Czechoslovakia</i> Notes from Foreign Ministry, April 2 and 12 (texts printed), giving the information communicated to the Department in Legation's telegrams No. 12 of April 1 and No. 15 of April 18, respectively.	541
May 5 (453)	<i>To the Minister in Czechoslovakia</i> Transmittal of draft treaty for presentation to Czechoslovak Government; explanation of general features and various provisions thereof; desire that negotiations be expedited in order that signed treaty may be submitted to the December session of the U. S. Senate; instructions to inform Department when draft is submitted to Foreign Office.	542
June 3 (22)	<i>From the Minister in Czechoslovakia (tel.)</i> Submittal of draft treaty to Foreign Office, June 3.	543
June 4 (1311)	<i>From the Minister in Czechoslovakia</i> Advice that Department must not be hopeful as to early conclusion of treaty, because of complexity of Czechoslovak internal administration and need for critical examination by the various Ministries. (Footnote: Information that further negotiations did not result in the signing of a treaty.)	543

DOMINICAN REPUBLIC

PROLONGATION OF THE PRESIDENTIAL TERM FROM FOUR YEARS TO SIX YEARS

1927		
Feb. 28 (20)	<i>From the Minister in the Dominican Republic (tel.)</i> Information that President Vasquez is considering a plan for prolonging his term of office to 6 years; Minister's intention to limit action to informal representations, making U. S. attitude clear.	545
Mar. 3 (10)	<i>To the Minister in the Dominican Republic (tel.)</i> Approval of informal representations based on Plan of Evacuation of 1922.	545
Mar. 8 (419)	<i>From the Minister in the Dominican Republic</i> Report of conversation with President Vasquez in which Minister made informal representations and the President explained his attitude, stating that while he was personally not anxious to remain in office after 1928, he was being pressed by different groups to continue until 1930; advisability of discouraging 6-year term proposal by action limited to friendly advice and counsel.	545

DOMINICAN REPUBLIC

PROLONGATION OF THE PRESIDENTIAL TERM FROM FOUR YEARS TO SIX YEARS—
Continued

Date and number	Subject	Page
1927 Mar. 31 (29)	<i>From the Minister in the Dominican Republic (tel.)</i> Probability that Congress will soon adopt a resolution expressing opinion that presidential term is for 6 years; apparent intention of President Vasquez to remain in office until 1930 if possible; suggestion that Department informally impress on Dominican Minister in Washington the possible serious consequences to his country through prolongation of presidential term or choice of an unsuitable successor and emphasize that the responsibility lies with President Vasquez.	547
Apr. 2 (13)	<i>To the Minister in the Dominican Republic (tel.)</i> Preference that Department's views not be conveyed to President Vasquez through Dominican Minister, because of latter's strong approval of 6-year term; authorization to express orally and informally to President Vasquez views in the sense of suggestion in Minister's telegram No. 29 of March 31.	547
Apr. 12 (439)	<i>From the Minister in the Dominican Republic</i> Information that plans are being made to call a Constituent Assembly to modify the Constitution so that terms of Vice President and Deputies will be extended to 1930, in order that they, as well as the President and Senators, may be elected at one general election; informal conversation with President Vasquez; informal conversations with Vice President Velasquez and a Dominican citizen, in which they expressed disapproval of the prolongation of Presidential term; probability that resolution now pending in Senate will be amended to prohibit reelection of the President upon completion of 6-year term, in order to meet objections to the new program.	548
May 2 (39)	<i>From the Minister in the Dominican Republic (tel.)</i> Passage of prolongation law by Congress and approval by the President; provision for election of Constituent Assembly and meeting thereof 10 days later; report that there is considerable excitement, but no disorder.	551
Aug. 26	<i>Memorandum by the Chief of the Division of Latin American Affairs of a Conversation With Señor Federico Velasquez y Hernandez, Vice President of the Dominican Republic</i> Discussion of Dominican political situation, in which the Department's attitude toward recent and possible future political events in the Dominican Republic was expressed, in response to the Vice President's remarks alleging illegality of extension of presidential term, and probability of political disturbances.	551

EGYPT

CORRESPONDENCE RELATING TO EQUALITY OF REPRESENTATION AS BETWEEN
THE CAPITULATORY POWERS ON THE EGYPTIAN MIXED COURTS

1926 Apr. 9 (12)	<i>From the Minister in Egypt (tel.)</i> Information that a Mixed Court judgeship will become vacant and Egyptian Government proposes to appoint another British subject to the post; belief that such action is not in conformity with equality of representation provided by agreement between the powers and the Egyptian Government at the time of establishing Mixed Courts; inquiry whether it is desirable that any representations be made.	555
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EGYPT

CORRESPONDENCE RELATING TO EQUALITY OF REPRESENTATION AS BETWEEN
THE CAPITULATORY POWERS ON THE EGYPTIAN MIXED COURTS—Continued

Date and number	Subject	Page
1926 Apr. 9 (793)	<i>From the Minister in Egypt</i> Note to Foreign Minister, April 9, 1926 (text printed), referring to Mixed Court vacancy and reported intention to appoint another British judge, and stating that the question is raised to record the fact that the United States recognizes that such action is not in conformity with agreement entered into between the powers and the Egyptian Government. Information that the American Minister took this action because of imminence of an appointment and his desire to apprise Foreign Ministry that the United States is taking note of the situation.	555
May 17 (824)	<i>From the Minister in Egypt</i> Foreign Ministry note of May 16, 1926 (text printed), citing precedents for freedom in the appointment of judges and declaring in the closing paragraph that the United States must have recognized the justice of the Egyptian Government's action in the past, because it did not formulate any protest and in 1916 renewed the mandate of Mixed Tribunals without making objection to the action of the Egyptian Government.	556
June 8 (271)	<i>To the Minister in Egypt</i> Opinion that the U. S. Government's previous silence would not debar it from formally taking exception to the present unequal representation; desire that no further action be taken except under instructions.	558
1927 Jan. 22 (306)	<i>To the Minister in Egypt</i> Summary of considerations which lead Department to instruct Minister to file with the Foreign Office an exception to closing paragraph of the note of May 16, 1926; desire that Minister discuss the note orally with appropriate authorities in detail; belief that further observations on the Egyptian Government's position would require more evidence from that Government as to the arguments which lead it to the conclusions expressed in the note; information that Department does not desire that any written communications with respect to the matter be addressed to the Egyptian Government.	560
Mar. 10 (10)	<i>From the Minister in Egypt (tel.)</i> Inquiry whether the directions of Secretary's instruction No. 306 of January 22 regarding written communications are to be interpreted as not applying to filing the exception noted.	565
Mar. 11 (8)	<i>To the Minister in Egypt (tel.)</i> Instructions that for the time being representations should be limited to an oral discussion with Foreign Office, during course of which Minister should take particular exception to closing paragraph of the note of May 16, 1926.	566
Mar. 28 (980)	<i>From the Minister in Egypt</i> Information that oral representations have been made to the Foreign Minister, who will reply in due course.	566
June 8 (1018)	<i>From the Minister in Egypt</i> Advice that no reply has been received to representations of March 28, probably because of existing political tension.	567

EGYPT

CORRESPONDENCE RELATING TO EQUALITY OF REPRESENTATION AS BETWEEN THE
CAPITULATORY POWERS ON THE EGYPTIAN MIXED COURTS—Continued

Date and number	Subject	Page
1927 Sept. 19 (63)	<i>From the Chargé in Egypt</i> Information that, with regard to Mixed Courts, Egyptian Government is most anxious for independence of action and a larger and more important Egyptian representation; memorandum of conversation of March 28 between American Minister and Foreign Minister (text printed); advice that no reply or reference to the conversation or representations has been made by the Egyptian Government.	567
REPRESENTATIONS CONCERNING ALLEGED DISCRIMINATION AGAINST AMERICAN COMPANIES IN THE ENFORCEMENT OF REGULATIONS ON STORAGE OF PETROLEUM AT THE PORT OF ALEXANDRIA		
1926 July 19 (17)	<i>To the Chargé in Egypt (tel.)</i> Understanding that Greek companies are being allowed to store and handle petroleum in Alexandria Harbor in disregard of existing Egyptian regulations; instructions to confer with Vacuum Oil Co. representative and report the facts to Department.	570
July 20 (28)	<i>From the Chargé in Egypt (tel.)</i> Information that several conferences have been held with company representative, and that Chargé will press further for reply from Egyptian Government to Legation's written and oral representations of June 8 and 29 and July 10.	570
July 20 (855)	<i>From the Chargé in Egypt</i> Intention of Chargé to arrange for interview with Prime Minister, and to discuss matter with British Residency because of participation of a British company in oil companies' protest of May 12 to the Egyptian Government; oil companies' representations of May 12 and Legation's representations of June 8 and July 10 (texts printed).	570
Sept. 30 (886)	<i>From the Chargé in Egypt</i> Foreign Minister's note of August 26 (text printed), setting forth reasons why it is not believed that the use of floating oil barges injures the companies in question or threatens the security of their installations. Chargé's opinion that Egyptian Government, by granting special privileges and immunities to small competing firms, discriminates against the old established companies and permits existence of a menace to safety of American property.	574
Oct. 22 (898)	<i>From the Minister in Egypt</i> Note to Acting Foreign Minister, October 12, transmitting a further protest by the Vacuum Oil Co. against the floating storage of kerosene and benzine in Alexandria Harbor (texts printed); request for instructions as to further procedure.	576
1927 Feb. 3 (4)	<i>To the Minister in Egypt (tel.)</i> Instructions to ascertain views of British and Rumanian colleagues, the nature of any representations they may have made, whether they would be in favor of joint or concurrent representations, and, if so, on what arguments they would base such action.	578

EGYPT

REPRESENTATIONS CONCERNING ALLEGED DISCRIMINATION AGAINST AMERICAN COMPANIES IN THE ENFORCEMENT OF REGULATIONS ON STORAGE OF PETROLEUM AT THE PORT OF ALEXANDRIA—Continued

Date and number	Subject	Page
1927 Feb. 23 (7)	<i>From the Minister in Egypt (tel.)</i> Information that no direct action has been taken by colleagues, that Belgian colleague, representing Rumanian interests, is favorable to joint action, and that British colleague is considering what steps if any should be taken; recommendation that no further action be taken until reply is received to memorandum left with British High Commissioner.	578
Mar. 8 (968)	<i>From the Minister in Egypt</i> Note from British High Commissioner, March 3 (text printed), stating that, because of improvement in harbor conditions and feeling of Egyptian Government that the floating depots are advantageous to the country and that reasonably adequate steps have been taken to safeguard shipping, no combined action is required. Chargé's doubt that any further steps should be taken at the present time.	
July 25 (14)	<i>From the Chargé in Egypt</i> Conference, July 16, between Acting Financial Adviser to Egyptian Government and representatives of American and British diplomatic and commercial interests, in which it was agreed that the best plan would be for the old established oil companies to present jointly to the Public Security Department a report and appeal, pointing out danger of present system and showing that space is available for land installations. Information from Acting Financial Adviser that no further permits for floating storage will be issued, nor will a company now holding such a permit be allowed to increase its stock.	
Nov. 25 (343)	<i>To the Chargé in Egypt</i> Memorandum by Department official of a conversation with representatives of the Vacuum Oil Co., November 7 (extract printed), in which the latter stated that the petroleum storage matter was on the way to satisfactory settlement and that it was believed for the time being no further representations by the U. S. Government were necessary.	582

ETHIOPIA

REESTABLISHMENT OF AMERICAN DIPLOMATIC REPRESENTATION IN ETHIOPIA

1926 May 22 (4)	<i>From Mr. Ralph J. Totten, Consul General Detailed as Inspector</i> Extracts from official report on investigation of desirability of reestablishing American diplomatic or consular representation in Abyssinia; recommendation that a representative be sent to Addis Ababa, preferably with the rank of Envoy Extraordinary and Minister Plenipotentiary.	584
1927 Feb. 7	<i>To the Vice Consul at Aden</i> Letter from Ras Tafari Makonnen, Prince Regent of Ethiopia, from President Coolidge, dated February 3 (text printed), advising that Congress has been asked to appropriate funds for the salary of a Minister Plenipotentiary and Envoy Extraordinary to Ethiopia, to be available July 1.	590

ETHIOPIA

REESTABLISHMENT OF AMERICAN DIPLOMATIC REPRESENTATION IN ETHIOPIA—
Continued

Date and number	Subject	Page
1927 May 11 (220)	<i>From the Vice Consul at Aden</i> Letter for President Coolidge from Ras Tafari, dated April 30 (text printed), acknowledging with pleasure the news that an American Legation will be established at Addis Ababa.	591
Aug. 6	<i>To the Vice Consul at Aden</i> Letter for Ras Tafari from President Coolidge, dated July 26 (text printed), advising that Congress failed to take favorable action on request for appropriation of funds for salary of a Minister Plenipotentiary and Envoy Extraordinary to Ethiopia because of a strict economy program; but stating that it is planned to appoint, with the consent of the Senate, a Foreign Service officer to act as Minister Resident and Consul General.	592
Oct. 17	<i>To the Vice Consul at Aden (tel.)</i> Instructions to send telegram to Ras Tafari (text printed), notifying him that Addison E. Southard has been appointed to act as Minister Resident and Consul General and inquiring whether the appointment is agreeable; instructions to telegraph substance of Prince Regent's reply.	594
Oct. 22	<i>From Ras Tafari Makonnen, Prince Regent of Ethiopia, to President Coolidge</i> Acknowledgment of letter of July 26, expressing confidence that Congress will soon take favorable action and that a representative will be sent to Addis Ababa.	594
Oct. 24	<i>From the Vice Consul at Aden (tel.)</i> Information that Ras Tafari has advised that he is greatly pleased with the appointment of Mr. Southard.	595
Dec. 1	<i>To the Appointed Minister Resident and Consul General in Ethiopia</i> Transmittal of commission and letter of credence, together with instructions as to the conduct of the Legation.	595

PROJECT FOR CONSTRUCTION OF A DAM AT LAKE TSANA

1927 Sept. 14	<i>Memorandum by the Chief of the Division of Near Eastern Affairs</i> Conversation between the Secretary of State and Dr. Martin, head of a special Ethiopian mission, in which the former stated, in response to inquiry, that no objection would be made to attempts to interest appropriate American concerns in a project for the construction of a dam at Lake Tsana.	599
Nov. 4 (214)	<i>To the Chargé in Great Britain (tel.)</i> Press reports of negotiation by J. G. White Engineering Corp. of New York of a 20-million dollar contract with Ethiopian Government for construction of Lake Tsana Dam, and resulting surprise in British official circles; information concerning Dr. Martin's conversations at Department September 14 and October 19, at which latter interview he stated that he had succeeded in interesting the White Company, which was disposed to undertake the necessary financing and construction work provided Ethiopian Government could conclude a satisfactory agreement with British and Egyptian Governments; departure of Dr. Martin for England, October 29.	601

ETHIOPIA

PROJECT FOR CONSTRUCTION OF A DAM AT LAKE TSANA—Continued

Date and number	Subject	Page
1927		
Nov. 7 (8)	<i>From the Chargé in Egypt (tel.)</i> Information that alleged contract of White Company has aroused great local interest and anxiety.	601
Nov. 8 (28)	<i>To the Chargé in Egypt (tel.)</i> Outline of Ethiopian proposition to White Company; understanding that, pending necessary agreement of Ethiopian Government with British and Egyptian Governments on price for added irrigation water made available, no final contract will be signed.	602
Nov. 8	<i>Memorandum by the Chief of the Division of Near Eastern Affairs of a Conversation Between the Secretary of State and the Egyptian Minister</i> Secretary's explanation, in response to Egyptian Minister's inquiry, that so far as Department was aware, no contract had been signed for the construction of Lake Tsana Dam.	602
Nov. 8 (2258)	<i>From the Chargé in Great Britain</i> Advice that Foreign Office gave Chargé to understand that no anxiety was felt as to possibility of the construction of Lake Tsana Dam by an American firm without a satisfactory arrangement having been reached with Great Britain, in view of the pertinent provisions of the treaty of Addis Ababa of 1902.	603
Nov. 11 (2267)	<i>From the Chargé in Great Britain</i> Excerpts from London press, November 9 and 10 (texts printed), setting forth remarks of Dr. Martin explaining status of his negotiations and remarks of Sir Austen Chamberlain, Foreign Secretary, in the House of Commons with regard to British interest in the Lake Tsana Dam matter.	604
Nov. 12 (114)	<i>From the Chargé in Egypt</i> Subsidence of interest and anxiety over Lake Tsana Dam matter, as a result of official and press cables giving assurance that treaty rights will be regarded and that England and Egypt will be consulted before Ethiopia concludes an agreement or signs a concession or contract.	606
Nov. 25 (2294)	<i>From the Chargé in Great Britain</i> Further remarks by Chamberlain in the House of Commons (excerpt printed), concerning British interest in Nile and Lake Tsana concession.	608
Dec. 9	<i>Memorandum by the Chief of the Division of Near Eastern Affairs</i> Conversation in which the president of J. G. White Company explained that Dr. Martin has in his possession an additional, detailed proposal from the company which might be described as a contract to enter into a contract subject to certain conditions which would make British cooperation essential.	608

FRANCE

BRIAND PROPOSAL FOR PACT OF PERPETUAL PEACE BETWEEN THE UNITED STATES AND FRANCE; COUNTERPROPOSAL FOR MULTILATERAL TREATY RENOUNCING WAR

Date and number	Subject	Page
1927 Apr. 6	<i>Statement Made to the Associated Press by the French Minister for Foreign Affairs</i> Remarks on the occasion of the 10th anniversary of entry of the United States into the World War, expressing France's desire for accomplishing maintenance of peace and declaring that France would be ready publicly to subscribe with the United States to any mutual engagement tending, as between those two countries, to "outlaw war."	611
May 27 (217)	<i>From the Ambassador in France (tel.)</i> Briand's desire to discuss his suggested pact between France and the United States.	613
June 2 (231)	<i>From the Ambassador in France (tel.)</i> Information from Briand that his Government has authorized him to inquire whether American Government would be willing to enter upon diplomatic conversations respecting a possible agreement of the nature proposed in his statement of April 6.	613
June 10 (172)	<i>To the Ambassador in France (tel.)</i> Press report that Briand has made his proposal in definite form and on June 3 gave American Ambassador a note explaining his idea of how the pact should be framed; instructions to advise whether such a note has been received, and if so, to telegraph summary.	614
June 11 (246)	<i>From the Ambassador in France (tel.)</i> Information that no note has been received, and that telegram No. 231 of June 2 reports the only overture which has been made.	614
June 11 (174)	<i>To the Ambassador in France (tel.)</i> Instructions to inform Briand orally that the American Government will be pleased to enter into diplomatic conversations with respect to his proposal; suggestion that at first the conversations be of an informal nature and be carried on through French Ambassador in Washington, due to imminent return of American Ambassador to the United States on leave.	614
June 14 (248)	<i>From the Ambassador in France (tel.)</i> Report that substance of telegram No. 174 of June 11 has been conveyed to Berthelot, Secretary General of the Foreign Ministry, because Briand is in Geneva.	615
June 21	<i>To President Coolidge (tel.)</i> Information that the Root arbitration treaties of 1908 with France, Great Britain, and Japan expire in 1928; suggestion that it might be advisable to sound out British and Japanese Governments as to their disposition to take up negotiations similar to American negotiations with France; inquiry as to approval of suggestion.	615
June 22 (260)	<i>From the Chargé in France (tel.)</i> Information that American reply was pleasing to Briand; but that because French Ambassador will not reach Washington until late August and the delay would be too great, Briand has drafted a suggested text of pact (translation printed), the French text of which will be delivered by American Ambassador Herrick.	615

FRANCE

BRIAND PROPOSAL FOR PACT OF PERPETUAL PEACE BETWEEN THE UNITED STATES AND FRANCE; COUNTERPROPOSAL FOR MULTILATERAL TREATY RENOUNCING WAR—Continued

Date and number	Subject	Page
1927 June 22	<i>From the Secretary to the President (tel.)</i> Suggestion by the President that the Secretary of State talk informally with Great Britain and Japan without commitment.	616
June 24	<i>Memorandum by the Chief of the Division of Western European Affairs</i> Objections to French proposition and draft text; opinion that the only answer seems to be that so far as relations with France are concerned adequate guarantees are contained in the Bryan treaty and that if any step further than this were required, it should be in the form of a universal undertaking not to resort to war, to which the United States would be happy to become a party.	617
June 26 (265)	<i>From the Chargé in France (tel.)</i> Desire of Briand to make statement on July 4 about proposed pact and to receive an expression of Secretary's views on the draft submitted, as he will make no statement not in entire accord with Secretary.	618
June 27 (196)	<i>To the Chargé in France (tel.)</i> Unpreparedness to give opinion now on Briand draft, and belief that a public statement by him would be inadvisable; opinion that the proposal should be discussed informally through regular diplomatic channels.	618
June 27	<i>To President Coolidge</i> Summary of present situation with regard to Briand proposal; outline of the existing treaty situation with France, Great Britain, and Japan; opinion that the United States cannot go much beyond a renewal of the Root treaties in view of fact that the Bryan treaties go on permanently and could, of course, again ask Japan to enter into a similar treaty; intention to make no answer to France until the President can submit the matter to the Cabinet.	61
June 29	<i>From President Coolidge</i> Approval of conclusions set forth in letter of June 27.	621
June 29	<i>From the Chargé in France</i> Communication to Briand's Chief of Cabinet of substance of Secretary's telegram No. 196 of June 27, and his acquiescence.	62
July 7 (229)	<i>To the Ambassador in Japan</i> Information that on June 30 the Secretary discussed Briand proposal with the Japanese Ambassador, stating that the United States would make no treaty with France which it would not be willing to offer to Great Britain and Japan, and suggesting that the Japanese Government might consider renewal of the Root treaty and the conclusion of a treaty similar to Bryan treaty.	622
July 13 (209)	<i>To the Chargé in France (tel.)</i> Instructions to inform Briand confidentially and orally that Ambassador Herrick has delivered the draft text, that the Secretary of State is carefully considering the matter but that he still feels that conversations of the nature indicated in telegram No. 174 of June 11 are appropriate and desirable.	623

FRANCE

BRIAND PROPOSAL FOR PACT OF PERPETUAL PEACE BETWEEN THE UNITED STATES AND FRANCE; COUNTERPROPOSAL FOR MULTILATERAL TREATY RENOUNCING WAR—Continued

Date and number	Subject	Page
1927 July 15 (1009)	<i>To the Ambassador in Great Britain</i> Conversation with the British Ambassador, July 6, concerning the Briand proposal, in which the Secretary stated that the United States would not make any treaty with France which it would not be willing to make with Great Britain, Japan, or any other country, and also inquired if British Government would be willing to discuss renewal of Root treaty and further treaty provisions which might be considered advisable. (Sent also to the Chargé in France.)	623
July 20 (235)	<i>To the Ambassador in Japan</i> Information that the Japanese Ambassador inquired on July 7 as to any further information on the Briand proposal, and was advised that there was none, but that he would be kept informed. (Sent also to the Chargé in France.)	624
July 25 (220)	<i>To the Chargé in France (tel.)</i> Paris press despatch of July 23 (text printed), stating that no reply or acknowledgment has been made to French draft of the treaty abolishing war; advice that the information is incorrect; instructions to ascertain whether Foreign Office gave out information of this kind.	625
July 26 (289)	<i>From the Chargé in France (tel.)</i> Information that Briand has been out of Paris, but that telegram No. 209 of July 13 was communicated to Leger, his Chief of Cabinet; assurance by Leger that Foreign Office had given out no statement of any kind with regard to the proposed treaty.	625
Sept. 14	<i>Memorandum by the Secretary of State of a Conversation With the French Ambassador</i> Brief discussion of Briand treaty, in which Secretary advised that he would be unable to discuss the matter until about October 1.	626
Dec. 28	<i>To the French Ambassador</i> Observations on Briand draft; advancement of counterproposal that French and American Governments join in an endeavor to obtain adherence of all the principal world powers to a declaration renouncing war as an instrument of national policy. (Footnote: Information that a copy of this note was transmitted in telegraphic circular, December 28, to the missions in France, Germany, Great Britain, Italy, Japan, and Switzerland, with instructions not to release to the press until further instructions, that the text of the note was released in Washington for the press on January 4, 1928, and that the missions listed were instructed by telegraph on January 3 to release the text promptly.)	626
Dec. 28 (1218)	<i>To the Chargé in Great Britain</i> Conversation, December 15, in which the Secretary informed the British Ambassador, during discussion of the Briand proposal and its general relationship to the Root arbitration treaties, that there was nothing definite yet. (Sent also, on January 6, 1928, to the Chargé in France.)	628

FRANCE

BRIAND PROPOSAL FOR PACT OF PERPETUAL PEACE BETWEEN THE UNITED STATES AND FRANCE; COUNTERPROPOSAL FOR MULTILATERAL TREATY RENOUNCING WAR—Continued

Date and number	Subject	Page
1927 Dec. 30 (378)	<i>To the Chargé in France (tel.)</i> Doubt of French Ambassador that Briand will be willing to consider a multilateral treaty unless it can be explained why the United States would not be able to conclude a bilateral treaty; instructions to see Briand, orally informing him of Secretary's feeling toward the question, and to cable results of the conversation.	629
Dec. 30 (227)	<i>To the Chargé in Great Britain (tel.)</i> Advice that Secretary has orally and confidentially informed British Ambassador of contents of note of December 28 to the French Ambassador; instructions to read text of note to Sir Austen Chamberlain, British Foreign Secretary, on a confidential basis. (Footnote: Information in telegram No. 1 of January 3, 1928, that the Chargé read the note to Sir Victor Wellesley, Deputy Under Secretary of State, in the absence of Chamberlain.)	629
Dec. 31 (459)	<i>From the Chargé in France (tel.)</i> Report of conversation with Briand; statement of his views in support of a bilateral condemnation of recourse to war, which he would be willing to have made in preamble to the act renewing the 1908 arbitration treaty; Briand's sympathetic attitude toward drafting a protocol outlawing war and inviting leading world powers to sign; impression that while Briand is disappointed at the nature of reply, he understands situation and is ready to accept what Secretary has to offer.	630

FRENCH TARIFF DECREE OF AUGUST 30, 1927, AND PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND FRANCE

1927 Mar. 19 (83)	<i>To the Ambassador in France (tel.)</i> Information that commercial attaché has reported receipt of assurances concerning position of American commerce under proposed new French tariff and has inquired regarding possible release of statement; desire for Ambassador's report and recommendations.	631
Mar. 22 (128)	<i>From the Ambassador in France (tel.)</i> Informal advice from Foreign Office that under the proposed new tariff relative position of American commerce will be maintained for the present; Ambassador's belief that France hopes that negotiations may soon be started for a new commercial treaty with the United States; opinion that no statement should be released.	631
Mar. 24 (130)	<i>From the Ambassador in France (tel.)</i> Indication by Commerce Ministry official of disposition to begin negotiations with the United States for both a commercial and a consular convention, following entry into force of the new tariff; request that Commerce Department be informed.	631

FRANCE

FRENCH TARIFF DECREE OF AUGUST 30, 1927, AND PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND FRANCE—Continued

Date and number	Subject	Page
1927 Mar. 26 (92)	<i>To the Ambassador in France (tel.)</i> Belief that the United States is warranted in proposing a treaty draft as soon as possible; instructions to telegraph opinion and suggestions; inadvisability at present of any further informal discussions with French officials.	632
Apr. 1 (149)	<i>From the Ambassador in France (tel.)</i> Opinion that, in view of French desire that negotiations not begin until after new tariff becomes law, the question of initiation of commercial negotiations be given further consideration; suggestions as to provisions to be included in treaty draft.	633
Apr. 9 (161)	<i>From the Ambassador in France (tel.)</i> Considerations which now prompt Ambassador to feel that it might be wise to initiate commercial negotiations; suggestion that, because France is not likely to consent to an agreement which would provide for most-favored-nation treatment <i>de jure</i> , provision as it appears in U. S.-German treaty be redrafted.	634
Apr. 13 (108)	<i>To the Ambassador in France (tel.)</i> Concurrence in opinion that time is appropriate to initiate negotiations; intention to transmit draft treaty shortly; information that Department will submit article 7, providing for most-favored-nation treatment, in substantially same form as in treaties already concluded with Estonia, Germany, and Hungary.	635
Apr. 14 (7378)	<i>From the Ambassador in France</i> Reiteration of suggestion that, in order to avoid immediate impasse on most-favored-nation question, the text of article 7 be remodeled.	635
May 2 (182)	<i>From the Ambassador in France (tel.)</i> From Young, an adviser of American delegation to the World Economic Conference at Geneva: Recommendation for immediate submittal of draft treaty to French Government, and reasons therefor; possibility that most-favored-nation treatment might be obtained if some concessions were made to France.	636
June 10 (2320)	<i>To the Ambassador in France</i> Transmittal of draft treaty of friendship, commerce and consular rights (text printed), providing for unconditional most-favored-nation treatment, for submittal to French Government when Ambassador considers that the time is opportune; instructions to cable Department when draft is submitted.	637
June 10 (7569)	<i>From the Ambassador in France</i> Improbability of prompt enactment of new tariff bill; French intention to continue pending commercial negotiations with various countries, including Germany; opinion that these developments do not make the present time any less favorable for initiation of commercial negotiations.	654
June 28 (2339)	<i>To the Chargé in France</i> Detailed comments on each article of draft treaty.	654

FRANCE

FRENCH TARIFF DECREE OF AUGUST 30, 1927, AND PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND FRANCE—Continued

Date and number	Subject	Page
1927 Sept. 2 (330)	<i>From the Chargé in France (tel.)</i> Commercial attaché to Department of Commerce: Information that French decree of August 30, effective September 6, provides many tariff increases in certain products which are granted minimum rates in Franco-German commercial treaty signed August 17, that the new minimum rates are considerably higher, the new general rates four times minimum, and that there are many substitutions of ad valorem for specific rates.	669
Sept. 3 (260)	<i>To the Chargé in France (tel.)</i> Instructions to consult with commercial attaché to determine whether substantial discrimination against American goods exists, and if so, to state to French Government the hope that it will impose upon American goods no higher duties than those imposed upon German goods until negotiations for a commercial treaty are consummated; further instructions to report action taken and results. (Footnote: Information that this hope was communicated to the French Government in an <i>aide-mémoire</i> , September 7.)	669
Sept. 3 (331)	<i>From the Chargé in France (tel.)</i> Information that Chargé urged that new tariff rates be held in temporary abeyance and that in response to his assertion that the United States was prepared to enter into negotiations for a commercial treaty, Foreign Office official stated that negotiations could be taken up after October 1; probability that Chargé's desire that American goods now in transit be excepted from the duties may be acted upon favorably.	670
Sept. 8 (341)	<i>From the Chargé in France (tel.)</i> Information that Chargé again pressed the matter of temporary abeyance of the application of new tariff to American goods, pending consummation of treaty negotiations, that Foreign Ministry official will probably recommend this action to the other Ministers concerned, and that the official indicated that if such a measure were to be adopted, negotiations should be opened at once, to which Chargé agreed; request for Department's confirmation so that it may be given to Foreign Office in writing.	671
Sept. 10 (268)	<i>To the Chargé in France (tel.)</i> Desire that draft treaty be presented immediately and that Foreign Office be informed that the U. S. Government is ready to begin negotiations. (Footnote: Information that on September 12 the Chargé telegraphed that he had just handed treaty draft to Foreign Office.)	672
Sept. 14	<i>Memorandum by the Secretary of State</i> Conversation with the French Ambassador concerning discrimination against American trade through the new tariff, general tariff relations between the two countries, U. S. Statutes with reference to tariffs, and draft treaty presented to the French Government on September 12.	672

FRANCE

FRENCH TARIFF DECREE OF AUGUST 30, 1927, AND PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND FRANCE—Continued

Date and number	Subject	Page
1927 Sept. 15 (352)	<i>From the Chargé in France (tel.)</i> Foreign Office <i>aide-mémoire</i> (text printed) offering temporary reduction of August 30 tariff rates in return for assurance that treaty negotiations will include tariff concessions on certain French products; information that Chargé expressed opinion that this reply would be unacceptable.	673
Sept. 19	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the French Ambassador, in which he was advised of inacceptability of the French reply and the reasons therefor.	677
Sept. 19 (282)	<i>To the Chargé in France (tel.)</i> <i>Aide-mémoire</i> for Foreign Office (text printed), stating position with regard to the French <i>aide-mémoire</i> and the tariff question in general.	678
Oct. 4 (7898)	<i>From the Chargé in France</i> Foreign Office <i>aide-mémoire</i> of September 30 (text printed), replying in detail to the issues raised in the American note, and expressing belief that the two Governments' points of view are divergent but that they may be adjusted to make possible a provisional arrangement which may lead to a permanent treaty.	681
Oct. 8 (314)	<i>To the Chargé in France (tel.)</i> Instructions to advise Foreign Minister informally that the U. S. Government hopes that the tariff discriminations of August 30 will be removed so that it will not be necessary for the President to use his power under section 317 of Tariff Act to increase duties in such an instance.	690
Oct. 8 (315)	<i>To the Chargé in France (tel.)</i> <i>Aide-mémoire</i> for Foreign Office (text printed), stating willingness to accede to French desires for investigation of changes in tariff rates based on cost of production studies, and possible "facilities" for French commerce; assertion that, pending negotiations, American products now being discriminated against under August 30 tariff should be given minimum tariff rates; willingness to examine sanitary and other regulations which France claims are obstacles to her agricultural exports.	691
Oct. 15 (405)	<i>From the Chargé in France (tel.)</i> Foreign Office note (text printed), offering to return to situation prior to August 30 decree, with certain additional benefits in return for guarantees, in form of a protocol, that the Tariff Commission will proceed with cost of production investigations, that study will be made to ameliorate sanitary restrictions which exclude agricultural and pharmaceutical products, and that interference of American customs on French territory will cease; expectation that the so-called countervailing duties applied on October 7 to certain French products would be withdrawn as soon as the proposed provisional status be put into effect.	693
Oct. 18	<i>Memorandum by the Assistant Secretary of State</i> Conversation in which the French Ambassador explained that his Government's last note did not make demands on the U. S. Government, but merely asked that the various questions be studied.	695

FRANCE

FRENCH TARIFF DECREE OF AUGUST 30, 1927, AND PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND FRANCE—Continued

Date and number	Subject	Page
1927 Oct. 22 (330)	<i>To the Chargé in France (tel.)</i> <i>Aide-mémoire</i> for Foreign Office (text printed), stating inability to see necessity for protocol, but setting forth explanations and assurances with regard to the desired guarantees, and reduction of the countervailing duties to the extent possible under Tariff Law of 1922; hope that France will now remove the discriminations and that treaty negotiations may begin.	696
Nov. 4 (7999)	<i>From the Chargé in France</i> Foreign Office note of November 2 (text printed), restating assurances contained in U. S. <i>aide-mémoire</i> , together with French interpretation thereof, and advising that as soon as U. S. Government declares that there is no divergence between the two Governments' views, the provisional regime will be established by decree.	698
Nov. 7 (345)	<i>To the Chargé in France (tel.)</i> Instructions to present <i>aide-mémoire</i> (text printed) stating that French interpretation of the explanations and assurances corresponds in the main to U. S. position and declaring readiness to enter upon treaty negotiations as soon as French tariff reductions are put into effect. Further instructions to present memorandum contained in Department's telegram No. 346.	700
Nov. 7 (346)	<i>To the Chargé in France (tel.)</i> Memorandum on the so-called countervailing duties (text printed), explaining that, while Tariff Law of 1922 precludes the restoration of the exact rates obtaining before October 6, approximate rates will be restored and the total annual increase of tariffs on French imports will be small.	701
Nov. 18 (8038)	<i>From the Chargé in France</i> Foreign Office note of November 15 (text printed), stating that the provisional customs regime will enter into force on November 21 by virtue of a decree.	702

ARRANGEMENT BETWEEN THE UNITED STATES AND FRANCE GRANTING RELIEF FROM DOUBLE INCOME TAX ON SHIPPING PROFITS

1926 Aug. 19	<i>From the French Chargé</i> Inquiry whether the United States is disposed to enter into an arrangement with France for the reciprocal exemption from taxation of profits of vessels under the other's flag.	703
1927 Apr. 26	<i>To the French Ambassador</i> Treasury Department letter of April 9 (extract printed), stating that if the proposed French decree (text printed) be adopted in the form submitted, it will meet the equivalent exemption requirements of section 213 (b) (8) of the Revenue Acts of 1921, 1924, and 1926.	704

FRANCE

ARRANGEMENT BETWEEN THE UNITED STATES AND FRANCE GRANTING RELIEF
FROM DOUBLE INCOME TAX ON SHIPPING PROFITS—Continued

Date and number	Subject	Page
1927 June 11	<i>From the French Chargé</i> Transmittal of copy of decree issued by the French Government, May 20 (text printed), with request for assurance that French citizens and companies will hereafter be exempt from tax on shipping profits.	705
July 8	<i>To the French Chargé</i> Treasury Department letter of July 7 (extract printed), declaring that the French decree of May 20 satisfies the equivalent exemption provision of section 213 (b) (8) of the Revenue Acts of 1921, 1924, and 1926.	706

REPRESENTATIONS TO THE FRENCH GOVERNMENT REGARDING CLAIMS OF AMERICAN CITIZENS FOR PROPERTY SEQUESTERED DURING THE WORLD WAR

1927 Dec. 17 (2546)	<i>To the Chargé in France</i> Instructions to make representations to the Foreign Office in connection with pending claims of American citizens for the release of sequestered property, asking that the existing understanding for reciprocal treatment be carried out and that the French Government extend to American claimants the same treatment and recognition of citizenship and property rights to sequestered property as was accorded by the U. S. Government to all French claimants, native-born or naturalized.	707
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AGREEMENT BETWEEN THE UNITED STATES AND FRANCE FOR THE ACQUISITION
OF SITES FOR MONUMENTS WHICH THE AMERICAN BATTLE MONUMENTS
COMMISSION IS TO ERECT IN FRANCE

1927 Aug. 29	<i>Agreement Between the United States of America and France</i> For the acquisition by the U. S. Government of lands intended as sites for monuments which the American Battle Monuments Commission is to erect in France.	718
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GERMANY

AGREEMENT BY THE ALLIED AND ASSOCIATED POWERS REGULATING AMOUNTS
TO BE ALLOCATED FOR CERTAIN PURPOSES FROM THE DAWES ANNUITIES,
SIGNED JANUARY 13, 1927

1927 Jan. 3 (3)	<i>From the Ambassador in France (tel.)</i> From Hill, American unofficial representative on the Reparation Commission: Information that a meeting will be held January 13 to consider proposal for fixing prior charge on Dawes annuities for costs of armies of occupation, Inter-Allied Rhineland High Commission, and Military Mission of Control; observation that in view of previous instructions, American unofficial representative will raise no objections at meeting.	722
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GERMANY

AGREEMENT BY THE ALLIED AND ASSOCIATED POWERS REGULATING AMOUNTS TO BE ALLOCATED FOR CERTAIN PURPOSES FROM THE DAWES ANNUITIES, SIGNED JANUARY 13, 1927—Continued

Date and number	Subject	Page
1927		
Jan. 13 (15)	<i>From the Ambassador in France (tel.)</i> From Hill: Indication at meeting of approval of proposed agreement; request for authorization to sign on behalf of the United States.	723
Jan. 31 (19)	<i>To the Ambassador in France (tel.)</i> For Hill: Authorization to sign, since agreement will reduce prior charges and increase American participation.	723
Feb. 1	<i>From the Unofficial Representative on the Reparation Commission</i> Information that agreement has been signed by the American unofficial representative.	724
Jan. 13	<i>Agreement by the Allied and Associated Powers Regulating Amounts To Be Allocated for Certain Purposes From the Dawes Annuities</i> For the armies of occupation, the Rhineland High Commission, and the Military Commission of Control for the period April 1, 1926 to January 10, 1930.	724

POLICY OF THE DEPARTMENT OF STATE REGARDING AMERICAN BANKERS' LOANS TO GERMAN STATES AND MUNICIPALITIES

1927		
Sept. 20	<i>From Messrs. Sullivan & Cromwell</i> Consideration by Harris, Forbes & Co. of the flotation of a bond issue of the Prussian State, the proceeds of which are to be used for harbor and agricultural development; inquiry whether Department offers any objection.	727
Sept. 26 (89)	<i>To the Ambassador in Germany (tel.)</i> Information that Department told German Chargé that bankers have been advised to consider special questions presented by German financing under Treaty of Versailles; that apparently German Government is not effectively controlling borrowing; that while objection cannot be made on ground of public policy, Department doubts utility of present loan; and that unless German Government undertakes to check loans strictly, U. S. Government may be compelled to place embargo on state and municipal loans. (Instructions to furnish copy to Agent General for Reparation Payments and to American Embassy official at Paris concerned with Reparation Commission matters, and, if approached by German officials, to make oral explanation of Department's position.)	728
Oct. 11	<i>To Messrs. Sullivan & Cromwell</i> Explanation of position with regard to German loans in general; assertion, however, that there appear to be no questions of Government policy involved which would justify objection to the loan under discussion.	729

GREAT BRITAIN

REPRESENTATIONS BY THE BRITISH GOVERNMENT REGARDING LETTER ON WAR
DEBTS FROM THE SECRETARY OF THE TREASURY TO THE PRESIDENT OF PRINCETON UNIVERSITY

Date and number	Subject	Page
1927 Mar. 23 (Dip. 580)	<i>To Diplomatic and Consular Officers</i> Statement by Princeton University president and professors, March 9 (text printed), urging reconsideration and revision of debt settlements with the allies; Treasury Department press release, March 17 (text printed), setting forth text of letter from the Secretary of the Treasury to the president of Princeton University, March 15, which explains the circumstances under which the debts were incurred and considerations on which he bases opinion that the reopening of the question would be inadvisable.	731
May 2 (301)	<i>From the British Ambassador</i> Representations against certain references to Great Britain's position and policy in the Secretary of the Treasury's letter of March 15; hope that the U. S. Government will correct the impression that has been created by the issuance of the statement.	739
May 4	<i>To the British Ambassador</i> Information that the U. S. Government regards the correspondence as a purely domestic discussion and does not desire to engage in any formal diplomatic exchanges on the subject.	745

ARRANGEMENT BETWEEN THE UNITED STATES AND GREAT BRITAIN FOR THE
DISPOSAL OF CERTAIN PECUNIARY CLAIMS ARISING OUT OF THE RECENT WAR,
SIGNED MAY 19, 1927

1927 Feb. 1 (83)	<i>From the British Ambassador</i> Inquiry whether the exchange of notes on the latest claims settlement may be expected before Parliament convenes on February 8.	745
Feb. 2	<i>To the British Ambassador</i> Inability to give assurance that the matter can be arranged before February 8.	746
Feb. 19	<i>Memorandum by the Secretary of State</i> Conversation, February 16, in which the British Ambassador was informed of the reasons why the exchange of notes probably cannot be accomplished until some time within the next 2 months.	746
Apr. 19	<i>Memorandum by the Assistant Secretary of State</i> General exposition of the war claims problem and comments on the provisions of the proposed agreement to dispose of the matter.	747
May 19	<i>To the British Ambassador</i> U. S. acceptance of the terms of the arrangement (text printed) for the disposal of certain pecuniary claims arising out of the recent war.	750
May 19	<i>From the British Ambassador</i> British acceptance of the terms of the arrangement (text printed) for the disposal of certain pecuniary claims arising out of the recent war.	753

GREAT BRITAIN

ARRANGEMENT BETWEEN THE UNITED STATES AND GREAT BRITAIN REGARDING
RELEASES OF PROPERTY UNDER AMERICAN AND BRITISH TRADING WITH THE
ENEMY ACTS

Date and number	Subject	Page
1927 Jan. 4 (1008)	<i>From the American Chargé in Great Britain to the British Secretary of State for Foreign Affairs</i> Memorandum (text printed) concerning the reciprocal release by the American and British Governments of property sequestered in both countries under the Trading With the Enemy Acts; inquiry whether understanding of British position is correct, and if so, whether the British Administrator is prepared to release to American citizens the property held by him in cases covered in the memorandum.	755
Feb. 23 (A 1066/ 171/45)	<i>From the British Secretary of State for Foreign Affairs to the American Ambassador in Great Britain</i> Information that the British Government's position is accurately defined, subject to slight amendments, and that it is prepared to release such property as is covered by the terms of the understanding and on the conditions stated therein.	759

INTERPRETATION OF CONVENTION OF DECEMBER 2, 1899, AND MERCHANT MARINE
ACT OF 1920 WITH RESPECT TO BRITISH COMMERCIAL RIGHTS IN AMERICAN
SAMOA

1926 Apr. 30	<i>Memorandum by the Solicitor for the Department of State</i> Study of the question whether article 3 of the convention of December 2, 1899, which provides for British and German shipping treatment in American Samoa equal to that enjoyed by U. S. shipping, is superseded by section 21 of the Merchant Marine Act of 1920, which extends coastwise shipping laws to island territories and possessions and thereby restricts such treatment to American vessels.	760
May 1	<i>To the Attorney General</i> Request for opinion with respect to British commercial rights in American Samoa for Department's use in consideration of proposal by New Zealand to enact legislation permitting American imports into Western Samoa on same basis as British imports, if the United States will permit New Zealand and all British ships to carry goods and passengers between U. S. and American Samoan ports and will grant to British shipping the same treatment in all other respects as is granted to American shipping.	768
1927 Jan. 27	<i>From the Attorney General</i> Opinion that section 21 of the Merchant Marine Act superseded, as a matter of municipal law, article 3 of the convention of 1899 and terminated the right of British vessels to engage in the coastwise trade between American Samoa and the United States.	770

GREAT BRITAIN

NEGOTIATIONS IN REGARD TO THE ADMINISTRATION OF THE TURTLE ISLANDS
AND TO THE BOUNDARY BETWEEN THE PHILIPPINE ISLANDS AND BRITISH NORTH
BORNEO

Date and number	Subject	Page
1921 Jan. 29	<i>To the British Chargé</i> Desire of Philippine Government to extend its administration over certain islands on the east coast of Borneo which are included in the group temporarily administered by the British North Borneo Company under the arrangement of 1907 between the British and American Governments; desire of American Government for modification of the 1907 arrangement with regard to the islands in question.	775
1925 Apr. 21	<i>To the British Ambassador</i> Inquiry whether any decision has been reached regarding the matter; opinion that a modification of the existing agreement would be preferable to a denunciation of the entire agreement.	776
1926 Apr. 21 (279)	<i>From the British Ambassador</i> Preference for modification of existing agreement; willingness to waive any claim on behalf of the British North Borneo Company, if certain considerations are guaranteed by the U. S. Government.	777
1927 Aug. 20	<i>To the British Ambassador</i> Information that the British terms have been communicated to Philippine Government, which believes that the conclusion of a U. S.-British agreement for definite delimitation of the boundary would be preferable to modification of the existing agreement; concurrence of U. S. Government; proposal that the two Governments enter upon treaty negotiations.	779

NEGOTIATIONS FOR CONVENTION BETWEEN THE UNITED STATES, GREAT BRITAIN,
AND IRAQ REGARDING RIGHTS OF THE UNITED STATES AND OF ITS NATIONALS
IN IRAQ

1926 July 13 (601)	<i>To the Ambassador in Great Britain</i> Instructions for presenting to British Foreign Office proposed draft convention regarding American rights in Iraq (text printed); observations concerning draft.	781
Sept. 1	<i>Memorandum by Mr. Allen W. Dulles, Foreign Service Officer</i> Report of conversations held in London in connection with negotiation of convention; British counterdraft as revised on July 30 (text printed).	787
Nov. 12 (740)	<i>To the Ambassador in Great Britain</i> Instructions for renewing discussion and presenting U. S. views, together with new draft of convention.	796
1927 Jan. 21 (1598)	<i>From the Chargé in Great Britain</i> Transmittal of Foreign Office note, January 18 (text printed), containing certain explanations and proposals connected with U. S. counterdraft, together with redraft of convention containing amendments proposed up to date.	799

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GREAT BRITAIN

NEGOTIATIONS FOR CONVENTION BETWEEN THE UNITED STATES, GREAT BRITAIN, AND
IRAQ REGARDING RIGHTS OF THE UNITED STATES AND OF ITS NATIONALS IN IRAQ—
Continued

Date and number	Subject	Page
1927 Mar. 1 (848)	<i>To the Ambassador in Great Britain</i> Acceptance of draft of January 18, provided exception be made relative to treatment accorded by United States to commerce of Cuba.	802
Nov. 8 (2256)	<i>From the Chargé in Great Britain</i> Transmittal of Foreign Office note of November 7 (text printed) explaining changes made in redraft convention in order to meet views of Iraq Government.	804
Dec. 17 (1208)	<i>To the Chargé in Great Britain</i> Acceptability of revision transmitted November 8, provided British and Iraq Governments accept modifications in articles 4, 6, and 7, as outlined. (Footnote: Information that these negotiations led to signature of a convention on January 9, 1930.)	806

RETENTION BY THE UNITED STATES OF CAPITULATORY RIGHTS IN IRAQ PENDING
CONCLUSION OF A TREATY

1927 May 11 (1861)	<i>From the Ambassador in Great Britain</i> Informal Foreign Office note, May 9 (text printed), communicating certain considerations regarding status of American nationals in Iraq. Hope of British authorities, expressed in discussion, that, in case of American citizens being implicated in disputes or legal proceedings pending coming into force of treaty regulating U. S. rights in Iraq, Department of State would recognize the <i>status quo</i> .	808
June 1 (981)	<i>To the Chargé in Great Britain</i> Instructions to bring informally to attention of Foreign Office the U. S. position that the capitulatory rights enjoyed under the American-Ottoman treaty of 1830 are still in effect as regards Iraq.	809
July 1 (524)	<i>From the Consul at Baghdad</i> Inquiry whether American firms with offices and businesses in Iraq have authority of U. S. Government to pay income taxes under Iraq law of 1927.	811
Sept. 26 (548)	<i>From the Consul at Baghdad</i> Information that Baghdad banks have been circularized by High Commission informing them that foreign consuls are to cancel stamps on checks drawn.	813
Oct. 1	<i>To the Consul at Baghdad (tel.)</i> Information that, until a treaty agreement to the contrary enters into force, the collection of income tax from American firms is in contravention of American treaty rights, but that United States would be pleased to consider any request for its consent to levying of tax on American nationals and that, should the firms in question desire to pay the tax, there is no objection to such individual action.	814

GREAT BRITAIN

RETENTION BY THE UNITED STATES OF CAPITULATORY RIGHTS IN IRAQ PENDING CONCLUSION OF A TREATY—Continued

Date and number	Subject	Page
1927 Nov. 8	<i>To the Consul at Baghdad</i> Information that principle with respect to payment of stamp tax is identical with that as to income tax, but that should consul pay the tax he should reserve the right, if and when his Government so directs, to claim full reimbursement for any amounts so expended.	814
Nov. 10 (568)	<i>From the Consul at Baghdad</i> Report that income taxation matter has been referred to London, with the result that High Commissioner has been instructed to try to persuade Iraq Government not to apply income tax law to American companies until conclusion of pending convention.	815

CONTINUED NEGOTIATIONS TO ENSURE RECOGNITION OF THE PRINCIPLE OF THE OPEN DOOR IN THE TURKISH PETROLEUM COMPANY'S CONCESSION IN IRAQ

1927 Apr. 1	<i>From the Associate General Counsel of the Standard Oil Company of New Jersey</i> Information that recent negotiations have resulted in plan for share participation by American Group in Iraq (Turkish) Petroleum Co. which would involve, so far as the "open door" under article 6 of the Iraq convention is concerned, an acceptance by American Group on its sole behalf of the self-denying ordinance of the agreements of 1912 and 1914 (texts printed) along with the other shareholders; inquiry whether Department has any objection.	816
Apr. 9	<i>To the Associate General Counsel of the Standard Oil Company of New Jersey</i> Nonobjection to American Group taking up proffered share participation in Iraq (Turkish) Petroleum Co., on the basis and understandings recited. (Bracketed note: Information that in a letter to the Associate General Counsel, April 16, 1928, the Department stated that it considered that "the arrangements contemplated in view of the special circumstances affecting the situation are consistent with the principles underlying the open door policy of the Government of the United States.")	822

CHINA

CONTINUED CIVIL WAR IN CHINA AND ELIMINATION OF COMMUNISTS FROM POWER IN THE NATIONALIST REGIME¹

893.00/8551

The Minister in China (MacMurray) to the Secretary of State

[Extract]

No. 941

PEKING, *February 21, 1927.*

[Received April 4.]

SIR: Pursuant to the Department's instruction No. 78, of October 9, 1925,² I have the honor to present herewith a summary of events and conditions in China during January, 1927.

A review of the general situation in China for January should once again be prefaced by the statement that there are no indications that an improvement can be hoped for in the immediate future.

Dissension, jealousy, and suspicion are rife among the northern military leaders and the unanimity of policy which is so essential to the successful conclusion of any military operations is sadly lacking among the leaders of the Ankuochun.³ Chang Tsung-chang is casting covetous eyes upon Shanghai and would appear only to be awaiting a favorable opportunity to oust Sun Chuan-fang from its control and to gain possession of its revenues, which amount to about 40 per cent of the Customs receipts for the whole of China.

Owing to defections among his Generals and lack of money and ammunition, Wu Pei-fu is in a precarious situation and continues rapidly to lose the prestige and influence he previously enjoyed. In spite of protestations that he is capable of maintaining his position in Honan without the assistance of Fengtien troops, Chang Tso-lin and Chang Tsung-chang have been sending large forces into that province, ostensibly with the intention of aiding Wu in his offensive operations against the Cantonese, although it is generally recognized that they hope at the same time to eliminate him altogether as a factor in the military situation.

¹ For previous correspondence concerning civil war in North China, see *Foreign Relations*, 1926, vol. I, pp. 591 ff.

² Not printed; it instructed the Minister to supplement his political reports by a brief monthly summary of events and conditions in China.

³ Allied Northern armies under Chang Tso-lin, Chang Tsung-ch'ang, and Sun Ch'uan-fang.

Disunion and lack of a common policy likewise exist to a certain extent in the ranks of the Nationalists. There is an ever widening split between the military and political factions and much dissatisfaction is said to exist among the troops who are clamoring for arrears in pay. At a military and political conference at Nanchang, General Chiang Kai-shek ⁴ is reported to have endeavored to introduce measures to counteract the communist influence in the Kuomintang, but was successfully opposed by Borodin ⁵ and Tung Yen-to [*Teng Yen-ta*].⁶

I have [etc.]

J. V. A. MACMURRAY

893 00/8836

The Minister in China (MacMurray) to the Secretary of State

[Extracts]

No. 965

PEKING, *March 18, 1927.*

[Received May 2.]

SIR: Pursuant to the Department's instruction No. 78, of October 9, 1925,⁷ I have the honor to present herewith a summary of events and conditions in China during February, 1926 [1927].

Large numbers of Fengtien and Shantung troops were despatched southwards during the first days of February, presumably in preparation for the much heralded offensive against the Nationalist Armies. On February 17th, Marshal Chang Tso-lin addressed a series of telegrams to the military leaders of the Ankuochun, as well as to Wu Pei-fu and other prominent militarists in Honan, announcing that he was about to launch an offensive with the object of recapturing Hankow and Wuchow from the Cantonese. Marshal Wu and his officers were assured that, when the Cantonese had been defeated, Honan Province would be evacuated of Fengtien troops. It is understood that, at a conference of Wu's principal generals, there was outspoken opposition to receiving support from Marshal Chang Tso-lin and, at the same time, Wu insisted that with the troops under his command he could retake Hankow unaided.

Although Marshal Chang Tso-lin and his military entourage in Peking continued to express their opposition to the Canton régime, it is significant that General Yang Yu-ting, who is still looked upon as Marshal Chang's chief adviser, has repeatedly hinted at the possibility of a truce with the Nationalists.

⁴ Commander in chief of the Chinese Nationalist army.

⁵ Michael Borodin, Russian adviser to the Hankow regime.

⁶ Chief of the Political Bureau of the Hankow regime.

⁷ Not printed.

After continued successes in Chekiang during the early part of February, culminating in the reported capture of Chuchow by the Northern troops, and the retreat of the Kuomintang Army beyond the borders of Chekiang, it was learned that the Northern troops were suffering reverses; and on February 18th a division of the Nationalist Army captured Hangchow. The defending troops evacuated the city before the attacking forces had entered it and there was no fighting of any consequence. Sun's forces withdrew in great confusion, some units fleeing into Anhwei, although the main body of his troops fell back to Singkiang [*Sungkiang*?], Kiangsu, where a stand was effected more because of the failure of the Southerners to pursue the attack than of any ability on the part of the defeated forces to check the victorious advance of the Cantonese.

Following shortly after Sun's defeat at Hangchow, the Military Governor of Anhwei, Chen Tai-yuan, declared his intention of maintaining an attitude of neutrality, and of defending his territory against aggression from any source. It is not considered improbable, however, that Chen will surrender to the South. As soon as the reports of Sun's decisive defeat at Hangchow were definitely confirmed, the forces of Chang Tsung-chang, which had been concentrated in large numbers at Pukow, began to advance into Kiangsu to take over the defense of Shanghai. Sun was reported to have expressed a desire to retire into private life and to have handed over the conduct of all military operations in Kiangsu to his erstwhile enemy, Chang Tsung-chang. It is estimated that Chang Tsung-chang has approximately 40,000 troops between Nanking and the Sinkiang [*Sungkiang*?] front.

Whatever truth there may be in the reports regarding Sun's future plans, his elimination from any active participation in military affairs for the present, at least, seems certain.

I have [etc.]

J. V. A. MACMURRAY

893.00/8420 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, March 22, 1927—5 p. m.

[Received March 23—11:55 a. m.]

239. Your No. 96, March 18, 10 a. m.^a

1. Your authorization to me to use Mayer^a as personal representative and official observer with the Nationalist authorities at Hankow

^a Not printed.

^b Ferdinand Mayer, Counselor of Legation at Peking.

is greatly appreciated. Quite possibly circumstances may come about in which making use of the discretion thus vested in me would be most helpful. However, I do not feel that to avail myself of it in the present conjuncture would be opportune.

2. Although the recent progress of the Kuomintang cause has been amazing, still its final success and even the permanence of its hold on the gains made thus far are problematical. Even though, as I am disposed to believe, [garbled groups] loyalty, coherence of action and comparative vitality of purpose will assure the eventual dominance of the Kuomintang Party throughout China, nevertheless there is as yet no certainty whether that dominance will be achieved in any near future, without reverses, or with the controlling group at present in power. At the present time the immediate future of the Hankow group is in the balance as regards both its position relative to the rival Northern organization and the factional contest inside the Nationalist Party.

3. If a representative of the Legation were to take up residence at this time in Hankow, not under stress of some need for dealing immediately with a concrete urgent question but for the general object of setting up closer relations with the so-called Nationalist regime now functioning there, it would appear as a positive act which was designed to give moral support and countenance to the Southerners as opposed to the Northerners and to the radical Russianized element of the Nationalists as opposed to the moderate and the more truly National elements which it seems are more or less definitely separating from the extremest influences that center at Hankow. At the present juncture such a gesture would create an impression that it was our wish to cast our influence on the side of those maintaining that reformation of China's foreign relationships can come about only by a form of revolution which is destructive of rights and institutions now existing. Consult my No. 237 of March 22.^{9a}

4. I do not assume to foresee how or when there may again arise a contingency which would make timely the Legation's availing itself of such suggested representation for the purpose of *de facto* dealing with those who are actually exercising authority in the various regions of political jurisdiction in China as was recommended in my No. 325 of August 14.¹⁰ I feel that for the time being there is neither opportunity nor necessity for what was suggested then. Subjectively the Kuomintang are too elated to deal on a regional basis; objectively they are not in a position as yet to deal on a national basis. Meanwhile I do not find any inadequacy in the procedure for

^{9a} Not printed.

¹⁰ *Foreign Relations*, 1926, vol. I, p. 671.

taking up current matters through the consular officer at hand. It is doubtless realized by the Department that the consul is regarded in China as a political agent, considered locally no less a representative of the Minister than is a member of the staff of the Legation. Even though some months ago Ch'en¹¹ made a bid (see my No. 626 of December 18¹²) for the institution of diplomatic representation in some form, which would be for his regime an entering wedge for recognition as the Government of China, he does not seem, unless indirectly, to have found a renewal of that [effort] [garbled group] expedient; in fact he accepts representations in my name from Lockhart as being quite as authentic as anything would be that could be conveyed through a member of my staff. For my part, I am equally satisfied with whatever assurances he presents to me through Lockhart. Bearing in mind in addition that the Nationalist dominion may recede, with the map of Chinese political influences changing over night, I have doubts of the expediency of lending ourselves to an idea that our consuls are not capable of speaking for their diplomatic chiefs authoritatively; and reserving the matter of questions in regard to which designation by the Legation of some special representative might be desirable to deal with a particular problem, it is my feeling that if we were to establish the precedent of superseding consular officers by specially detailed representatives from the Legation staff we should risk impairment of our consular organization's excellent morale and, amidst the confusion of Chinese political developments, needlessly limit our available means of procedure.

5. Since there is no actual government in China but instead a hurly-burly of aspirants to the functions of government, it is the logic of the situation, which to conform to during an active state of civil war on a large scale would not be timely, that the post of Minister should be abolished and someone appointed High Commissioner to China with the authority to designate as he might consider expedient foreign service officers as commissioners to represent him when occasion might require. The situation is such that I feel it would not be timely to put this suggestion into effect, but nevertheless I venture the remark that were I High Commissioner, for all ordinary purposes I should unhesitatingly designate Lockhart for that purpose as the Commissioner at Hankow rather than as a Legation member.

MACMURRAY

¹¹ Eugene Ch'en, Minister for Foreign Affairs in the Nationalist Government at Hankow.

¹² *Foreign Relations*, 1926, vol. I, p. 687.

893.00/8420 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, March 24, 1927—7 p. m.

100. Your No. 239, March 22, 5 p. m. Department made the suggestion for your consideration and decision is left with you. In the conclusions your telegram set forth the Department entirely concurs but believes that to abolish the post of Minister at this time and appoint you High Commissioner would not be wise. This step has not been taken by any government during the present crisis in China and in several instances the Government of the United States has continued to maintain a minister charged to supervise American interests even when in the country concerned no recognized government existed. In the present case the Government of the United States seems less bound since the recognition it accorded to the Government of China to which you are accredited was a qualified one.

KELLOGG

893.00/8861 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 7, 1927—5 p. m.

[Received May 7—7:56 a. m.]

528. Following received from American consul, Foochow:

"May 4, 6 p. m. I am reliably informed that an agreement between the Nanking Government and the Chinese Navy has been made whereunder a new permanent provincial administrative board consisting of conservative Fukienese headed by Admiral Yang Shu-chwang will shortly replace the present provisional board. The movement for the driving out [of] local radical element reported in my telegram April 8, 1 p. m., may be considered practically complete so far as Foochow itself is concerned. Popular sentiment appears to be strongly in favor of Chiang Kai-shek and the radical changes locally. Are you in a position to give any general indication of American policy with respect to the Nanking Government and the local governments now aligned therewith?"

2. I replied as follows:

"May 7, 5 p. m. Your May 4, 6 p. m. American policy with respect to Nanking authorities and other local authorities in China remains unchanged, that is to say, the American Government is entirely neutral, not aligning itself with or opposing any faction in the present civil strife in China."

MACMURRAY

893.00/8861 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, May 9, 1927—3 p. m.

212. Your 528, May 7, 5 p. m. Your instruction May 7, 5 p. m., to Foochow approved.

KELLOGG

893.00/9087

The Minister in China (MacMurray) to the Secretary of State

[Extracts]

No. 1036

PEKING, May 10, 1927.

[Received June 13.]

SIR: Adverting to the Department's instruction No. 78 of October 9th, 1925,¹⁵ I have the honor to present herewith a summary of conditions in China during the months of March and April, by exception consolidated into one report, to permit of a more general survey of closely linked events.

The situation in the Yangtze Valley and the possible seizure of Shanghai by the Nationalists were the subjects which furnished the most speculation and discussion during the month of February. In March these two topics not only remained in the foreground but interest in them was raised to a very much higher pitch of intensity, since that month witnessed not only the entry of the Nationalists into Shanghai but a situation in the Yangtze region, of which the most serious aspect, the Nanking incident of March 24th,¹⁶ stands out as probably the most disquieting single occurrence in the history of China's foreign relations since the Boxer uprising of 1900. As the month drew to a close tension and uncertainty increased to such a point as to cause foreigners resident in China to feel that they were faced with an extremely grave situation in which immediate, decisive and comprehensive action would apparently be necessary to prevent an appalling disaster.

The month of April, on the other hand, by reason of occurrences subsequently touched on in this report, witnessed a gradual recession from the high point of uneasiness reached in March until at the end of the period covered by this report the grave crisis had passed and there appeared to be a reasonable probability that a stalemate had come about the duration of which could not be foretold.

To revert to the beginning of the period under review, by the 10th of March anti-foreign demonstrations had become a matter of daily

¹⁵ Not printed.

¹⁶ See pp. 146 ff.

occurrence along the Yangtze River. While especial bitterness was shown against the British, a boycott was instituted not only against British business ashore and their merchant vessels but against American business interests as well, which made it seem to the nationals of both countries as if the days of all foreigners along the Yangtze were numbered. . . .

On the 21st of March Nationalist forces entered the native section of Shanghai without encountering very active opposition on the part of Northern troops. Agitators called a general strike resulting in the stoppage of tramways and bus lines and the closing down of the Post Office, of large stores, cotton mills and a large number of other industrial establishments. Prior to the arrival of the Southern forces, gunmen had appeared in various parts of the city and indiscriminate sporadic firing and looting went on for several days. In the International Settlement, however, the Municipal Council had issued a proclamation warning against disturbances and the presence of large foreign forces, principally British, in all parts of the Settlement maintained relative quiet there. It was reported by the American naval authorities that no Americans were injured in the taking of the city.

As the month wore on, the already meager degree of personal safety possessed by foreigners within the areas under Nationalist control was gradually being undermined while observers in Peking were by no means confident that this condition would not spread into the North. It was realized that politico-military developments of the preceding weeks had resulted in the virtual elimination of Sun Chuan-fang and Wu Pei-fu, as well as in the lessened prestige of Chang Tsung-chang consequent upon his enforced retreat from the Shanghai and Nanking areas. This situation brought into relief Chang Tso-lin and Chiang Kai-shek as the two dominant military figures in China, which would presumably be divided between them, for internal purposes, with the Yangtze as the boundary. Should these two leaders have effected an understanding, it was questionable how long Chang Tso-lin would be willing to withstand the current of Nationalist feeling flowing through the country and continue to afford the same degree of protection to foreigners which he was giving in the North for the Kuomintang was unquestionably well organized in all important northern centers, and its principles had to a certain extent permeated the northern troops. A further phase of the situation was the possibility that Marshal Chang might retreat to Manchuria, abandoning North China to the Kuomintang and Kuominchun, and from the chaotic conditions incident to such a retreat there would result a state of great potential danger to foreigners.

These preoccupations, however, were given point by the events of the 24th of March at Nanking, when the Southern forces took possession of the city. The morning of that day ushered in a veritable reign of terror for all foreigners who had remained there. . . .

At the end of March, in ever widening circles around the storm centered at Nanking, a consciousness of uncertainty, based in part on the delay of the five Powers in taking action against the Southern leaders, had spread over the entire country. Finally, however, on the 6th of April, an event occurred which, while it may not mark a turning point in the history of China's foreign relations, at least did much to bring about an abatement of the strained uneasiness so familiar at this time to persons involved in Chinese affairs. On that date, after competent Chinese authorities in Peking had previously obtained the permission of the Senior Minister to make a search of certain properties adjacent to the Soviet Embassy within the Legation Quarter, a raid was made on these premises by members of the Metropolitan Police force supported by *gendarmes*. During the course of it four Russians barricaded themselves in the Military Attaché's house with a view to defending themselves with a machine gun and revolvers and setting fire to various incriminating papers and to the house itself, but they were eventually overpowered without having used their weapons. Otherwise there was no firing whatever, and no serious injury was sustained on either side. The Senior Minister reported that the search had revealed that a great many Chinese conspirators were living on the premises. There were taken into custody forty odd Chinese, including domestics, together with some twenty Russians, about thirty rifles, a machine gun, a great number of flags and banners to be used in revolutionary processions or belonging to anti-British, anti-French and anti-Japanese societies, a register containing some four thousand names of persons in Peking belonging to the conspiracy and an enormous mass of documents containing important evidence of Soviet activity and particularly of organized anti-foreign agitation in China.

While it will take months to translate and study the great number of papers taken in the raid, enough evidence has already been revealed to establish that the Soviet Government had consistently been inciting the Kuomintang to anti-foreign violence in Nationalist territory as well as in North China. . . .

No papers emanating from the American Legation or bearing directly on its activities have as yet been found, the documents thus far discovered dealing mainly with the work of the Japanese, British and Italian Legations. Chang Tso-lin, in an interview granted me in the latter part of April, during which we spoke of the raid, stated

that he was engaged in a fight against Bolshevism in China which he intended to pursue to the bitter end, adding that he would protect foreigners and foreign property within the territory under his control, and that he would use all his resources to bring his present campaigns to a successful conclusion. The Chinese Communist leader Li Ta-chao and twenty-three of his followers, who had been captured in the raid, were executed on April 25th and the trial of Madam Borodin and other Russians who were taken prisoner on the *Pamiat Lenina* at Nanking is scheduled to take place in May.¹⁷

Coinciding with these disclosures in North China of the machinations of Soviet agents was a growing apprehension among the Nationalists in the South of the purposes and the prospects of communism with the resultant beginnings of a split between a tenaciously radical faction at Hankow and a more moderate element at Nanking. In regard to the Nanking incident, a new factor had thus emerged by the middle of April to befog the issue and to complicate the situation by causing an apparent division of responsibility for the outrages of March 24th. . . .

On April 15th a move against the communists occurred at Canton which Mr. Jenkins reported to be the most encouraging development of its sort during the past two years. Although definite figures were not available it was conservatively estimated that more than two thousand communists were arrested that day in Canton by soldiers and police acting under instructions from Chiang Kai-shek and Li Chi-ch'en. The number of casualties incident to the action was not given out but it was thought that between fifty and one hundred people were killed, most of them being members of the railway unions who resisted arrest. Mr. Jenkins reported that the Government's forces acted with energy and skill, the entire movement against the communists having been evidently planned in advance and carried out with remarkable success thus forestalling an allegedly well established plan, on the part of the radicals, not only to attack the Government but to move against Shameen and other foreign settlements with a view to bringing about serious complications between the Powers and the present moderate administration in Canton.

Commenting on the situation at Foochow Mr. Price informed me early in April of a change that had taken place in the provincial administrative personnel there, said to have occurred directly under the orders of Chiang Kai-shek, that amounted virtually to an anti-communist *coup d'etat*. Presumably in coordination with this activity at Foochow drastic action was also instituted at that time at Amoy against the radical section of the Kuomintang there. A student parade was held on the 11th of April, in favor of Chiang

¹⁷ These prisoners were released by the Peking High Court on July 12, 1927.

Kai-shek with banners calling for the protection of foreigners and it was reported that six radical leaders were arrested, three being later released and the others held for trial. From Swatow Mr. Chamberlain reported on the 26th that the situation was orderly and that attempts made to suppress radicals were apparently meeting with success.

On the 25th of April, Mr. Lockhart reported a noticeable improvement in the situation at Hankow, the leaders apparently being driven to the adoption of remedial measures to avoid risk of complete collapse. Posters had been widely distributed directing that foreigners not be interfered with and demonstrations of anti-foreignism and parades of radicals had practically ceased. The change of feeling was no doubt to be attributed to a substantial increase in the naval forces at Hankow, a more chastened attitude on the part of the Government, the steady growth of unemployment and the almost complete paralysis of local business by reason of a stringent silver embargo.

Accordingly as the month drew to a close it seemed apparent that, for the moment at least, the crisis of subversive and destructive Soviet activity in China had been passed and that the withdrawal of their Embassy from Peking, which took place on April 17th, was not an empty gesture but an acknowledgment of defeat. Furthermore it appeared to be reasonably certain that there existed a fundamental breach between the right and left wings of the Kuomintang on account of the anti-communist stand taken by Chiang Kai-shek, and of the apparently successful attempt of moderate groups at such places as Shanghai, Amoy, Swatow and Canton to assert themselves against the Russianized extremists.

I have [etc.]

J. V. A. MACMURRAY

893.00/9291

The Minister in China (MacMurray) to the Secretary of State

No. 1099

PEKING, June 22, 1927.

[Received August 8.]

SIR: Adverting to the Department's instruction No. 78, of October 9th, 1925,¹⁸ I have the honor to transmit herewith enclosed a summary of events and conditions in China during the month of May, 1927.

I have [etc.]

J. V. A. MACMURRAY

[Enclosure—Extracts]

Summary of Events and Conditions in China During May 1927

The month of May, which witnessed a well coordinated advance on the part of the various army groups opposing the Ankuochun and

¹⁸ Not printed.

its allies, and a resultant increase in the tenseness of the situation in North China, was also characterized by a revival of military activity and politico-military maneuvering of a confusing and frequently abortive character, there seldom having been a time since the establishment of the republic when it was so difficult to determine exactly what was happening in various parts of China and what the prospects were of any military faction overcoming its rivals. Press despatches and reports from other sources reaching Peking from day to day during the month were often contradictory in their accounts of the situation in the several centers and it was not an infrequent occurrence, especially at the outset of the Southern offensive, for both sides in an encounter, and sometimes even a third party, simultaneously to claim victory or deny defeat.

At least nine separate factions were engaged during May in the fight for the military control of China. Under the leadership of Chang Tso-lin three principal groups made up the Ankuochun. They were the Fengtien, or Mukden party; the Chihli-Shantung forces under Chang Tsung-chang; and Sun Chuan-fang's reorganized forces along the Grand Canal north of the Yangtze. The other six main elements were: Chiang Kai-shek at Nanking and Shanghai; the radical Hankow remainder of the original Canton Government whose armies are under T'ang Sheng-chih; the Kuominchun under Feng Yu-hsiang in Shensi and western Honan; Chin Yun-ao, a lone General attacking the Fengtien troops in Honan; a Hupeh group of two generals, Yang Sen and Hsia Tao-yin, who have declared war on the Hankow Government; and finally the famous General Yen Hsi-shan, *Tupan* of Shansi, who had not, during May, declared himself for or against any faction.

Instead of having been able to take advantage of the diplomatic gains made during the Washington Conference, China now finds itself in a period when foreign men and women dare not dwell in the interior of the country, when property is nowhere safe and when loosely organized bands of soldiers and bandits roam over disorganized and often devastated provinces.

One of the major causes of disturbed conditions in the country, has been Soviet influence within the Kuomintang. The communists, foreign and Chinese alike, seized the opportunity afforded them to put their political and economic theories into execution and met at first with considerable success. Lately Soviet influence has been waning to the extent that the impracticability of their theories, under the present organization of Chinese society, is being demonstrated. Since the results attained during the past year have been stupendous the communistic elements bid fair, however, to take down with them to defeat, if this takes place as seemed probable during May, the Kuomintang as that party was originally organized. As foreshadow-

ing eventual dissolution Mr. Jenkins reported early in May from Canton, the party's original headquarters, that the Kuomintang was thought already to have ceased to exist as a political entity and that there was grave likelihood of a disintegration into a number of provincial military governments similar to those prevailing previous to 1925.

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MILITARY AFFAIRS

In regard to military activity a practical deadlock existed, during the first two weeks of the month, among the various groups engaged in the civil war in China which was broken, during the last fifteen days of May, in a coordinated offensive all along the North China front by the armies of Chiang Kai-shek, in Kiangsu and Anhwei; of T'ang Sheng-chih in Honan; and of the Kuominchun under Feng Yu-hsiang in the West. Coordination was achieved in the face of a multitude of internal jealousies and distrusts, in spite of the apparent split between the Nanking and Hankow factions of the Kuomintang, and in spite of a certain individualism on the part of Feng Yu-hsiang. In this relation the Legation's Military Attaché pointed out that the mere synchronization of the movements of three individual army groups over five hundred miles of front, at a time when communications were in a most defective state, was a clear indication of the excellence of the Russian staff-work involved.

T'ang Sheng-chih left Hankow on May 1st, to lead the northern expedition, all traffic except military being suspended at that end of the Hankow-Peking line. There seemed to be an evident desire on the part of the Hankow faction to lead the advance against the Mukden forces, rather than leave that task to Chiang Kai-shek, and the first days of May found the 3rd, 4th and 11th armies on the move northward. The Hankow Government, well known to be in serious financial difficulties, was apparently staking everything on the outcome of their northern expedition. On May 7th it was estimated that about 30,000 troops had been sent up the railway line since the drive began, only a few remaining in Hankow, there being no visible signs of conflict between the radical faction there and the Nanking elements.

However, in spite of the determination displayed by Hankow, Chiang Kai-shek's offensive up the Tientsin-Pukow railway would seem to have been the first to develop. On the 11th reports from Nanking indicated that the bulk of Chiang Kai-shek's armies were endeavoring to cross the Yangtze at three points; near Wuhu, 10 miles above Nanking, and near Chinkiang, with a general flanking attack against the northern forces along the Tientsin-Pukow line to commence on the 15th of the month.

On May 18th, in consequence of the increasing gravity of the situation in North China, the Military Attachés of the American, British, French, Italian and Japanese Legations submitted a confidential statement outlining the following three circumstances which were to be considered emergencies warranting a reenforcement of the contingents of their respective countries in North China:

1. Any decisive defeat or large-scale disaffection of the Northern forces south of the Lunghai Railway.
2. The withdrawal of the Northern forces from any part of the Lunghai Railway.
3. In the event of a Southern (Nationalist) advance against the Northern Government, any invasion, insurrection and/or *coup d'état* north of the Lunghai Railway.

The Southern forces continued their successful advance and on May 31st, at the end of the period covered by this report, the Fengtien army completed a withdrawal across the Yellow River in good order on the Kaifeng-Kunghsien front and occupied a position extending from the Yellow River to the army's main concentration line which was in the vicinity of Shihkiachwang. Sun Chuan-fang and the Shantung forces under Chang Tsung-chang were at that time organizing a general line on Haichow-Taierchwang and Hanchwang, 30 miles north of Suchow junction and were covered by Chu Yu-pu just south of Suchow. All the Northern troops were badly disorganized and the subordinate officers were undependable but the Southern forces were not pressing further and were in need of reorganization.

On May 30th the American, British, French and Italian Ministers were informed by the Japanese Minister of his Government's despatch of 2,000 troops to Tsingtao from Dairen, a further contingent of 2,000 to be sent to the Peking-Tientsin area should the situation seem to require it. It was emphasized that the troops were sent for protective purposes only and that they were to be withdrawn as soon as conditions warranted. An avowal, in so definite a manner, of the determination of the Japanese Government to provide protection for its nationals did much to lessen the potential gravity of the situation prevailing in North China at the end of May.

While it was felt that the Legation Quarter might yet become the object of mob violence during an interregnum, or conceivably be attacked in a desultory fashion by outgoing Northerners or incoming Southerners, the American Legation felt that the degree to which the Japanese had permitted themselves to become engaged constituted an important factor in causing the question of the contemplated withdrawal of the Legation from Peking, in order to prevent a repetition of the Boxer siege, to be removed from immediate consideration.

In regard to the general question of the reenforcement of foreign contingents in North China the Military Attaché ascertained that by

the middle of June the following approximate increases in strength would have been accomplished:

British at Tientsin from 750 to 1250; at Peking from 167 to 350, with possible further reenforcements up to 4,000 depending on developments in June.

Japanese at Tientsin from 1,000 to 2,500, plus a brigade headquarters, artillery and an aviation unit; at Peking from 307 to 800.

French at Tientsin from 1,850 to 2,400; at Peking from 228 to 478. Italians at Peking from 146 to 246.

In the matter of American reenforcements, the breaking of the Lunghai line, constituting as it did one of the emergencies envisaged in the statement of the Military Attachés, made it seem advisable to cause the 1,700 marines available at Shanghai to be despatched to Tientsin for the protection of American lives and property in North China, and a telegram requesting that that be done was accordingly despatched, by the Legation, to the Commander-in-Chief of the United States Asiatic Fleet, through the Consulate General at Shanghai, on May 31st.

893.00/9346

The Minister in China (MacMurray) to the Secretary of State

[Extracts]

No. 1135

PEKING, July 18, 1927.

[Received August 22.]

SIR: Adverting to the Department's instruction No. 78 of October 9th, 1925,¹⁹ I have the honor to submit the following summary of events and conditions in China during June, 1927:

The month of June, which was characterized by intense political activity, witnessed, as the most outstanding development in that sphere, the assumption by Chang Tso-lin, on June 18th, of the office of Tayü-anshuai, or virtual Dictator over North China.

From a military point of view a condition of relative stability prevailed, the most positive military operation of the month being a Nationalist thrust up the Tsin-Pu Railway, apparently constituting a preliminary operation on the part of Chiang Kai-shek to another advance northward which did not take place, on any important scale, during the period covered by this report. On June 24th it was reported that the Nationalist offensive had started up the railway and that Lincheng and Hanchuang had been captured. The Shantung forces counter-attacked on the 29th, however, and reported the recapture of Lincheng.

¹⁹ Not printed.

The political activity of the month took the form of a series of conferences among the leaders of the various factions from which it seemed at one time as if an understanding, participated in by a majority of the rival factions, might yet be arrived at. This, however, did not prove to be the case and, characteristically, no clear-cut or comprehensive adjustments were attained.

Rising suddenly to national prominence, in the roll of arbiter, Yen Hsi-shan made proposals during the first week in June for an anti-red entente between Chiang Kai-shek, himself, and the Ankuochun. It seemed that he had definitely declared himself in favor of the moderate or Nanking faction of the Kuomintang and had accepted the position of Commander-in-Chief of the People's Northern Route Revolutionary Army, but without any manifestations of hostility against Chang Tso-lin. A complete rupture of the negotiations which had been in progress between Yen Hsi-shan's and Feng Yu-hsiang's emissaries was reported at that time together with the suppression of all communist activities at Taiyuanfu. Yen was also engaged in discussions with Chang Tso-lin to the end that the latter should accept the Sun Yat-sen "Sanmin" principles and withdraw peaceably to Manchuria, his place to be filled by Yen's forces, which would act as a buffer between the Southerners and Northerners, thus permitting Peking to be used as a common meeting ground for the representatives of Chang Tso-lin, Chiang Kai-shek and Yen Hsi-shan when they endeavored to arrive at a compromise which would permit of a general parley.

Several factors seemed to indicate the possibility of a favorable outcome to the negotiations among the three leaders. There existed, for example, such common antipathies as Chiang Kai-shek's desire to eliminate Borodin and Chang Tso-lin's and Yen Hsi-shan's anti-communism, and there was distrust of Feng Yu-hsiang on the part of all three. Furthermore, Chang Tso-lin's finances were in a precarious condition and Chiang Kai-shek, with Hankow as an uncertain ally if not actual enemy, was at a great distance from his base.

The negotiations, however, would seem to have collapsed entirely, the chief obstacle in the path of a successful outcome apparently having been Chiang Kai-shek's insistence on obtaining control over Shantung and Chihli, a concession that Chang Tso-lin was unwilling to make.

In the Nationalist camp, the figure of Feng Yu-hsiang loomed large during June but his attitude as usual was enigmatic. He attended and apparently dominated a conference among the members of the Wuhan party at Chengchow, begun on the 7th and ending on the 16th of June, at which no definite result appears to have been attained beyond a recognition of Feng's claim to the control of Honan. Upon the conclusion of the Chengchow conference, Feng

went to Hsuehchow for a meeting with Chiang Kai-shek on or about June 20th. It was reported that the two leaders were in complete agreement and that Feng had wired the Wuhan Government demanding the dismissal of Borodin and the elimination of red influence. It was not felt, however, that Feng intended for that reason to proceed against Hankow with any force and it was observed that in spite of his manifest coldness to them the Wuhan radicals continued to court him assiduously.

ASSUMPTION BY CHANG TSO-LIN OF THE OFFICE OF GENERALISSIMO

With the purpose of assuming all of the responsibilities of the government, including the appointment of a cabinet directly responsible to himself alone, Chang Tso-lin created a virtual dictatorship over North China by his inauguration on June 18th as Tayüanshuai, or Generalissimo of the Army and Navy of the Republic of China. After months of indecision and procrastination he thus decided to abandon legal fictions and political pretences and, regardless of constitutional procedure, overtly to assume the title and exercise the authority of a military dictator. This action, which brought to an end the shadowy government of Premier Wellington Koo, was taken after a series of military conferences held in Peking during the first two weeks in June among his generals, and after the apparent collapse of the peace negotiations among Chiang Kai-shek, Yen Hsi-shan and Chang Tso-lin.

Following his assumption of office Marshal Chang Tso-lin issued a manifesto, dated June 18th, outlining the functions of the Military Government thus established, and providing substantially as follows:

1. The Generalissimo shall command the military and naval forces of the Chinese Republic.

2. During the existence of the military administration, the Generalissimo shall represent the Chinese Republic in carrying on governmental functions and shall protect all rights which should be enjoyed by the people of the nation under the law.

3. The Military Government shall establish cabinet officers to assist the Generalissimo in carrying out governmental affairs.

4. The number of the cabinet officers shall be as follows: Premier, Minister for Foreign Affairs, Minister for Military Affairs, Minister of the Interior, Minister of Finance, Minister of Justice, Minister of Industry, Minister of Education, Minister of Agriculture and Labor, Minister of Communications.

5. Mandates of the Generalissimo shall be countersigned by the Premier, and those which affect the affairs of any of the various Ministries shall also be countersigned by such ministers, provided, however, that mandates appointing or dismissing cabinet officers shall not come within this category.

6. The organization of the personnel of the cabinet and of the various Ministries shall be separately fixed.

7. Such laws and mandates, promulgated prior to June 17, 1927, as do not conflict with the present mandate may be adopted.

By another mandate of the same date P'an Fu was appointed Premier.

In a note addressed to me on June 22nd, Wang Yin-t'ai, as the new Minister for Foreign Affairs, announced Chang Tso-lin's assumption of office and stated that the Marshal took the following oath of office:

"I, Tso-lin, having undeservedly obtained the office of Generalissimo of the Army and Navy of the Republic of China, do hereby solemnly swear that I will strengthen the Republic; that I will develop government by the people; that I will reform the internal administration; and that I will strive for harmony in international relations."

The Legation made a brief third person acknowledgment on the 25th, in terms which carefully avoided any degree of recognition of the new government.

CONDITIONS IN CANTON

Commenting, in a despatch to the Legation of May 4th, on the moderate Kuomintang regime in Canton, Mr. Jenkins had reported that the general situation in relation to foreigners had greatly improved there since the *coup* of April 15th (reference to which was made in the Legation's monthly report covering that month). The public was more friendly and the local authorities were more active in their efforts to protect the interest of foreigners, as well as those of the native merchants and property-owning classes. At the same time the local administration was at pains to emphasize that there was to be no material change in the policy of the Kuomintang. According to public announcements, the fight against imperialism was to continue, the demands for cancellation of the "unequal treaties" were not to be abated, nor were the rights of organized labor to be neglected.

In a despatch dated June 7th, Mr. Jenkins reported that the political situation in his district continued quiet and practically unchanged since his above mentioned report of May 4th. He stated that martial law had nominally been abolished and that relatively good order was being maintained in the city. The general attitude of the people continued to be more friendly than previous to the anti-communist *coup* in April but anti-British propaganda flared up occasionally and there were evidences of an under current of dissatisfaction against the existing régime. There were also indications of renewed radical activity which was making itself felt either with the support of the government or in spite of its opposition.

Mr. Jenkins added that there had been a regrettable decline in official morale since the anti-communist *coup*, possibly due to the departure of so many leading officials for Nanking. More than likely, however, he said that it was due primarily to the withdrawal

of Russian and communist leadership which had played such an important part in the administration of affairs in South China during the past two years.

According to reliable reports, the provincial treasury was practically empty and the officials in charge of the collection of taxes were meeting with much difficulty, not only in Canton, but throughout the province.

I have [etc.]

J. V. A. MACMURRAY

893.00/9434

The Chargé in China (Mayer) to the Secretary of State

[Extracts]

No. 1161

PEKING, August 17, 1927.

[Received September 19.]

SIR: In accordance with the Department's Instruction No. 78, of October 9, 1925,²⁰ I have the honor to submit the following summary of events and conditions in China during July, 1927.

From a military point of view, the condition of relative stability which characterized the month of June was not radically modified during July. The Nanking-Shansi-Fengtien peace conferences, to which reference was made in the Legation's monthly report for June, continued intermittently during the month, apparently without concrete result, while Feng Yu-hsiang maintained his characteristic position of tentative alliance with every group except the Fengtien party.

In Shantung, between July 5th and 8th, Chen Yi-yen, a subordinate of Sun Chuan-fang, in command of some 10,000 troops astride the Tsingtao railway at Kaomi, declared himself a Nationalist and attempted to secure Tsingtao. The forces at the latter place remained loyal, and prompt action by Sun from the West put an end to the sporadic effort. This uprising, however, furnished the occasion for the garrisoning of the Kiaotsi railway and of Tsinanfu by Japanese troops, as well as the strengthening of the Japanese forces in China by an additional reinforced brigade. At Tsinan, the Japanese residents greeted the troops with enthusiasm, while the Chinese inhabitants, particularly the merchant class, would seem to have been frankly relieved by their arrival. No anti-Japanese demonstrations took place.

²⁰ Not printed.

Relations between the Hankow and the Nanking régimes, during July, appeared as formerly both strained and obscure. With Feng Yu-hsiang observing the situation from the Hupeh-Hunan border, troop movements took place from Hankow and Nanking to the critical area near Kiu-kiang but there was no decisive clash. Chiang Kai-shek's preoccupation with events along the Yangtze and his withdrawal of troops from the northern front, on that account, may be considered, in part at least, to be responsible for an advance on the part of the Shantung armies in South Shantung and Northern Kiangsu where, at the end of the month, they were engaged in driving back Nationalist delaying detachments and in coping with various local elements of unrest. The most serious fighting of the month appears to have occurred in the vicinity of Hsuehowfu, which was occupied by the 5th and 6th Chihli-Shantung armies on July 24th.

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CONDITIONS AT HANKOW

New difficulties were created for the Hankow régime, during July, by reason of an intensification of the dissension between the conservatives and the radicals. The radicals appear to have been pressing for a campaign against Chiang Kai-shek, a move opposed by the conservatives, who were endeavoring to find ways and means of driving out the Russians.

On July 13th Mr. Lockhart telegraphed the Legation that T. V. Soong had arrived there the night before from Shanghai to assume charge of the Ministry of Finance and that on the same evening an important conference of leaders had taken place, dominated by the faction which is seeking to rid Hankow of the Russians.

On July 20th Mr. Lockhart stated that the resignation of Eugene Chen appeared to be imminent then and that he was making certain personal arrangements which seemed to indicate his entertaining the expectation of leaving Hankow shortly. Mr. Lockhart added that Sun Fo, in a public statement made at that time, had definitely aligned himself with the conservatives; that several of the prominent leaders would probably soon be in the Chiang Kai-shek camp; and that Madam Sun Yat-sen had left Hankow, ostensibly for Kuling, where Borodin and other leaders of the Hankow government were then engaged in a conference in which an effort was being made to outline that government's future course. The whole communist organization apparently was crumbling. Picket and various labor union headquarters had been closed, and a strict surveillance was being maintained by the 35th Army under Ho Chien, martial law prevailing in the native city at night.

On July 20th a joint telegram was received by the Hankow government from Feng Yu-hsiang, Hsü-chien, and H. H. Kung proposing a conference at Kaifeng between the Hankow and Nanking factions to settle their differences and to unite on a northern drive. This conference, however, did not take place.

Summarizing the important developments of the end of the month at Hankow, with due allowance for constantly changing conditions, Mr. Lockhart informed the Legation, on July 27th, that the position of the conservative wing of the Kuomintang was distinctly stronger. Pessimism in government circles had given way to optimism and the effort to purge the party of radicals appeared to be succeeding. As far as politics were concerned, there was no substantial difference between the Hankow and Nanking governments, the main obstacle between them being apparently personal animosity on the part of a few leaders at Hankow toward Chiang Kai-shek. Moderately extensive military preparations had been made during the month for a drive against Chiang, but the plan had the earmarks of being primarily designed to frighten the latter into a compromise arrangement favorable to the Hankow régime. Chen admitted to Mr. Lockhart that the Hankow government was in straitened circumstances financially and the bold scheme to endeavor to oust Chiang and repossess the Nanking and Shanghai areas was largely based, in Mr. Lockhart's opinion, on the dire need for fresh revenues and the necessity of proving unmistakably, to Feng Yu-hsiang and to others, that the real authority of the Nationalist government was centered at Hankow.

Speculation was rife during July regarding Borodin's movements. Mr. Lockhart reported the revolutionist's apparently definitive departure for Russia, after a number of false starts, on July 27th, by special train on the Peking-Hankow railway. Borodin carried with him three passenger automobiles, five motor trucks following him the next day, since he was said to have planned to travel overland through Shensi and Mongolia. As indicated by Mr. Lockhart, Borodin's apparently permanent withdrawal, while dampening the artificial revolutionary spirit at Hankow, would make it possible more clearly to distinguish between that pervading influence which had been extensively propagated by the Russians, and the spirit of true Chinese nationalism which, should it exist in the substantial proportions claimed, would assert itself and be easily recognized.

Further evidence of the ascendancy of the conservative elements was contained in a telegram of July 30th from Mr. Lockhart in which he stated that General Galen was arranging to leave Hankow by the same means and route used by Borodin and that he was expected to do so within a week from that time.

893.00/9572

The Chargé in China (Mayer) to the Secretary of State

[Extracts]

No. 1204

PEKING, September 22, 1927.

[Received November 12.]

SIR: In accordance with the Department's Instruction No. 78, of October 9, 1925,²¹ I have the honor to submit the following summary of events and conditions in China during August, 1927:

Interest, during the month under review, largely centered around the activities of the Nanking Nationalist Régime, the outstanding event, in this relation, being the resignation of General Chiang Kai-shek on August 11th.

An anticipated consequence of his abrupt withdrawal was the apparent disintegration of the Nanking government which, from the beginning, had been characterized by the lack of any real cohesion and which had been weakened by military reversals and by military and political intrigue fomented by the Wuhan Régime and by Marshal Feng Yu-hsiang. Chiang Kai-shek's resignation was in fact considered to foreshadow a union of the Hankow and Nanking governments and of Feng Yu-hsiang, although no clear cut regroupment of that nature occurred during the period covered by this report. It was likewise thought to involve a reorientation of Soviet policy in China, under the aegis of the Christian General,²² with emphasis on military rather than on communistic activity, since the latter was apparently becoming increasingly distasteful to the majority of the Chinese people. In this general relation, it also seemed certain that the effort made first at Canton and later at Hankow to set up a liberal but authoritative civil government had failed and that the militarists were again firmly in the saddle.

As indicated in a despatch of August 17th from the Consulate General in Shanghai, General Chiang Kai-shek proceeded to that port, following his resignation in Nanking. He arrived, with a special bodyguard of four hundred and fifty men, on August 13th, and left the same day for Ningpo. During his brief stay in Shanghai, he is reported to have had a long conference with Chang Ching-chiang, his chief political adviser, although he also received the visits of a number of friends, many of whom were opponents of the Nanking Régime. Various reports as to his future course of action were current, one of them being that he would remain in Ningpo until he had perfected certain unspecified arrangements with General Tan Shu-chin of Fukien, who claimed control over a force of 80,000 men prepared to support Chiang in any further activities.

²¹ Not printed.

²² Feng Yu-hsiang.

In a parting manifesto which General Chiang Kai-shek submitted to a party meeting at Nanking on August 11th, he stated that he held the success of the Kuomintang cause above all else. He stated further that he was resigning to eliminate dissention (inferentially with the Wuhan group, which he felt should join with Nanking in party councils). Concluding the manifesto, General Chiang urged, first, party unity at all costs; second, an immediate united drive against Peking; and, third, the elimination of the last vestiges of Communism.

At the time of the departure of Chiang Kai-shek, it appeared that, with the possible exception of Wang Chung-hui, the General's civilian colleagues had resigned with him. Subsequently, however, Mr. Cunningham telegraphed the Legation that Mr. C. C. Wu and the other Nanking cabinet ministers had not resigned and were reported to be functioning as usual.

MILITARY ACTIVITY

The military activity of the month was mainly characterized by an advance on the part of the Ankucchun and its allies along the Tsinpu Railway and the Grand Canal, until, on August 25th, Sun Ch'uan-fang effected crossings of the Yangtze and made a desperate but abortive attempt to take Nanking.

Pengpu fell on August 8th and Mingkuan a few days later. By August 15th, as indicated in a report of the Military Attaché, the Northerners had reached beyond the line Mingkuan-Chingkiangpu, while, along the Lunghai Railway, Feng's detachments had been forced back on Kweiteh.

From the 15th to the end of the month, active military operations were confined in general to Anhwei and Kiangsu. The Ankuochun offensive continued down the Tsinpu Railway and Pukow was captured on August 17th. "This front," in the words of the Military Attaché, "was then turned over to Sun Ch'uan-fang, who initiated efforts to reconquer his old territory."

On August 23rd, the American Vice Consul in charge at Nanking, in a wireless message despatched from the U. S. S. *Preble*, eighty-eight miles above Woosung, reported that practically all the high authorities of Nanking had then left the city, while large numbers of troops had been withdrawn from the Tsinpu line and from up river to that point. The north bank of the Yangtze being held at the time by Northern troops, the military authorities at Nanking were concentrating large forces there in preparation for open hostilities, should the Northerners cross the river. Active military operations in the vicinity of Nanking appeared probable; the water front from Kiangyin to Wuhu was guarded by Southern soldiers; and martial law had been declared throughout the region.

As already stated, a part of Sun Ch'uan-fang's forces did in fact succeed in crossing the Yangtze on August 25th, and there then ensued a week of very heavy fighting, the invaders coming closest to Nanking on August 31st, and being driven back across the river, during the first days of September, with very considerable losses.

CONDITIONS IN HANKOW

The retirement of Chiang Kai-shek, during the middle of August, seemed momentarily to infuse new hope into the Hankow Régime, but no very tangible results came of it.

Prior to the General's withdrawal, the American Consul General at Hankow, in a telegram of August 12th, had reported that the Hankow government was as near a financial and political collapse as it was possible to be, short of complete disintegration. Only the military, whose numerical strength had been considerably impaired as a result of the defection of rebellious troops, remained relatively powerful. Former leaders were departing every day, their destination frequently not being disclosed, due to fear for their lives.

In a telegram despatched shortly after Chiang Kai-shek's resignation, Mr. Lockhart stated that, as a result of it, the Chinese populace of Hankow was thrown into a very unsettled state of mind, not knowing in which way it would be swept by the changed political, military, and financial currents, but feeling that far-reaching consequences were certain to ensue. T'ang Sheng-chih was at that time making preparations to oppose Feng Yu-hsiang, who had advanced some distance down the Peking-Hankow Railway. The money market was completely demoralized, Central Bank notes being quoted at 2.35 for one silver dollar, and Treasury Notes being unacceptable at any figure. The whereabouts of Mr. Eugene Chen was unknown.

On August 19th the Hankow Nationalist government and the central Kuomintang made a joint proclamation ordering the removal of the capital to Nanking. On the same day, the Hankow Ministry of Finance issued an order that all inland taxes and the two and one-half per cent and one per cent surtaxes were to be paid in hard silver, which, in effect, constituted a repudiation of Central Bank notes and of all Treasury Certificates. Inasmuch as the embargo on silver was still in force and since there was an acute shortage of silver dollars, the new order worked great hardship on both Chinese and foreign merchants.

On August 23rd, a responsible officer attached to the Hankow Ministry of Foreign Affairs informed the Consul General that Eugene Chen had either left Shanghai or would do so in a day or two for Geneva "to explain the aims of the Nationalist government to the

League of Nations", and that he had not resigned, but had been given a three months' leave of absence.* Mr. Lockhart's informant added that the government would not be removed to Nanking until Hsuehchowfu was retaken or until the military situation at Nanking had cleared.

On August 27th, the Hankow government claimed to possess a definite assurance from Feng Yu-hsiang that he would not invade that area, this being substantiated by his consent to effect a partial restoration of traffic on the Peking-Hankow Railway. Preparations under way at that time tended, furthermore, to confirm the announcement of a contemplated joint drive northward by Feng Yu-hsiang and the combined Hankow and Nanking factions. However, this movement, as has already been stated, was not undertaken on any significant scale, during August.

At the end of the month, certain preliminary arrangements had already been initiated for the removal of the government offices to Nanking while conferences continued between Nanking and Hankow leaders at Kiukiang. Practically all the government agencies at Hankow, including the post offices, continued to accept only silver dollars. A slight improvement in the food situation was noticeable, but no improvement in currency matters or in the employment problem.

I have [etc.]

FERDINAND MAYER

893.00/9619

The Chargé in China (Mayer) to the Secretary of State

[Extract]

No. 1247

PEKING, October 20, 1927.

[Received November 29.]

SIR: In accordance with the Department's Instruction No. 78, of October 9, 1925,²³ I have the honor to submit the following summary, with index,²⁴ of events and conditions in China during September, 1927:

During August attention was focussed largely on the activities of the Nanking Nationalist Government whose virtual collapse served to render still more unsettled the disturbed state of affairs in South

* According to local press reports of the end of the month, Eugene Chen and Mrs. Sun Yat-sen reached Vladivostok on August 29th, on their way to Moscow. [Footnote in the original.]

²³ Not printed.

²⁴ Index not printed.

China. During September also the interplay of centrifugal and disruptive forces in that region commanded attention but interest was likewise aroused by manifestations of unrest in Manchuria and by the outbreak of hostilities in North China between Fengtien and Shansi.

Fighting between Northern elements and the Nanking Nationalists was confined mainly to the first days of September. As indicated in the Legation's report for August, Sun Ch'uan-fang was unable to secure a permanent foothold on the south side of the Yangtze and was compelled to fall back with an estimated loss of 10,000 men. The Nationalist forces recrossed the river and reoccupied Pukow without, however, manifesting a serious intention to advance up the Tientsin-Pukow Railway. I am informed by the Legation's Military Attaché that the front between the Northern and the Southern forces, perpendicular to the Tsin-Pu Railway, remained during the latter part of September practically unchanged along the line of the Hwai River.

FENGTIEN-SHANSI CLASH

Hostilities between the forces of Chang Tso-lin and Yen Hsi-shan broke out abruptly and, to the Peking Government, apparently rather unexpectedly during the last days of the month. The responsibility for taking the initiative in the matter seemed to rest with Yen Hsi-shan (or at any rate with his subordinate, General Shang Chen), the Governor of the "Model Province" of Shansi thus voluntarily or involuntarily abandoning his heretofore well guarded neutral attitude toward civil strife. As reported by the Military Attaché, the Peking-Suiyuan Railway was cut near the boundary between the Chahar-Suiyuan districts and fighting occurred near Chaikowpu, twenty-five miles west from Kalgan on September 29th. Although Marshal Feng Yu-hsiang's forces had not appeared actively in the field by the end of the period covered by this report, there was reason to believe that they were not far beyond the horizon and it was Major Magruder's opinion that the Fengtien-Shansi clash could only be looked upon as the most serious breach in the peace of China north of the Yellow River that had occurred since the summer campaign of 1926.

UNREST IN MANCHURIA

Concern was occasioned during September by the recurrence of anti-Japanese agitation in Manchuria. Several public demonstrations of protest took place in Mukden, possibly with the connivance or at the instigation of the Peking authorities, as a means of com-

batting Japan's alleged desire to achieve a dominant position in Manchuria and Mongolia, it being felt that that country was no longer content with "South Manchuria" but envisaged as well the economic control of all of the Three Eastern Provinces and of Mongolia.

As expressed by the American Consul in Mukden, in a despatch of September 29th, Japan's so-called "positive policy", which he described as one of economic imperialism, apparently had been evolved in order to allow Japanese economic expansion to continue unhampered in the regions concerned. It was Mr. Myers' conclusion that Japan was definitely turning toward Manchuria and Mongolia and possibly toward eastern Siberia also, as the solution of its pressing food and surplus population problems. He stated that Japanese immigration on a large scale into those regions was hardly to be expected in the face of lower Chinese standards of living and of a rapidly increasing Chinese population, but that the construction of new railways, the opening up of new agricultural lands, the development of timber and mineral resources, the creation of new industrial undertakings, and a greater volume of trade would undoubtedly offer a livelihood for a much larger number of Japanese than was now found in Manchuria (namely about 200,000). Mr. Myers further reported that, according to a prominent Japanese, it was the aim to make Dairen the rival of Shanghai. He indicated that Manchuria, with an area of 365,000 square miles and a population variously estimated between 20,000,000 and 25,000,000 people, of which over half was to be found in Fengtien Province, together with the sparsely inhabited plains of Eastern Mongolia, was apparently proving increasingly alluring not only to Chinese immigrants from Shantung and Chihli, but to Japanese empire builders. The Consul felt that, although Japanese expansionist policy might be economic at this time, as widely professed, an avoidance of a merger into territorial aggression would become more and more difficult as its interests in that region grew.

On September 29th I telegraphed the Department that General Yang Yu-ting was then in Mukden ostensibly pursuant to the Japanese Government's insistence that anti-Japanese agitation be suppressed and that the questions at issue, such as the paralleling by Chinese lines of the South Manchuria Railway and the land lease question, be satisfactorily adjusted. I added that while no further large anti-Japanese demonstrations had been reported and that while the situation at Mukden was outwardly improved, the underlying factors making for serious difficulties between the Japanese and Chinese in Manchuria still obtained.

RELATIONS BETWEEN HANKOW AND NANKING

The Legation's monthly report for August alluded to a then seemingly impending joint drive northward by Marshal Feng Yu-hsiang and the combined Hankow and Nanking factions. No substantial military operation of this character occurred, however, either in August or September nor was the question of the amalgamation of the Hankow and Nanking governments satisfactorily adjusted during that period.

The American Consul General at Hankow reported in a telegram of September 14th that it was fairly well established that General T'ang Sheng-chih had been requested to resign by the Nanking faction and that it was clear that the "consolidated" government there was already torn with dissension. Mr. Lockhart stated that most of the leading officials of the Hankow government had left for Nanking but that their offices were still nominally maintained at Hankow, a complete removal being held in abeyance until the completion of final amalgamation plans. The Consul General added that conditions were outwardly quiet in Hankow at that time but that the military patrol there had been strengthened for fear of further communist activities.

After a series of conferences among the various Kuomintang elements apparently somewhat more harmonious than had been anticipated, a large number of factions proceeded to Nanking for a meeting of the Central Executive and Central Control Committees on September 15th. The delegations included the most prominent of the various factions, notable among the absentees, however, being Wang Ching-wei, who had resigned the chairmanship of the Central Executive Committee on the 14th, and T. V. Soong. From this meeting a "Special Committee" emerged allegedly to exercise the functions of the Central Executive Committee and the Central Control Committee.

This Special Committee then proceeded to evolve a complete internal organization of its own and to complete on paper the establishment of a united Nationalist Government with headquarters at Nanking. As suggested by Mr. Lockhart, however, the right which it arrogated unto itself to act in place of the Central Executive Committee and to assume the powers and privileges vested in the latter organ was contested at Wuhan and, among others, by the Kiangsu and Chekiang Provincial Kuomintang Branches.

Mr. Lockhart telegraphed the Legation on September 24th that T'ang Sheng-chih, Wang Ching-wei, Koo Meng-yu, and other leaders of the Hankow regime, who were *persona non grata* with the Nanking faction, were then holding conferences at Hankow

ostensibly for the purpose of maintaining the independence of that government.

It appeared from the Consul General's reports of the end of the month that the Hankow vernacular newspapers were at that time denouncing the Nanking government and that there was a possibility that a proclamation might be issued by the leaders at Hankow, declaring the complete independence of that régime. As Mr. Lockhart stated, the whole situation was practically dependent upon day to day developments, and this condition of uncertainty persisted until the end of the period covered by this report.

REVIEW OF SITUATION AT HANKOW

Commenting on the activities of the so-called Nationalist Government at Hankow, in a despatch dated August 27th, the American Consul General there stated *inter alia* that the net result of twelve months of turmoil in that region might be summed up as follows:

"1. The economic and financial fabric of the Yangtze valley is little short of being in a state of complete ruin.

"2. The Chinese people have lost confidence in their leaders and in a large measure in some of the principles with which they were inspired to a patriotic endeavor to rescue the country from its present condition of disorganization and irresponsibility.

"3. Missionary enterprises have suffered irreparable injury and it is doubtful whether they will ever be able to recover the prestige which they once enjoyed or regain the same full opportunity which was theirs for spreading Christian teachings among the Chinese.

"4. The social fabric and the family life of foreigners have been disrupted and severe financial losses have befallen practically all of them, many having completely surrendered their business connections and gone home.

"5. The Chinese have alienated the sympathy of many of their foreign friends who had freely championed their cause for years.

"6. The transportation and shipping systems have become so demoralized and have deteriorated to such an extent that years will be required to restore them.

"7. Financial affairs are so confused that it is hopeless soon to expect any order out of the present chaos.

"8. The military has arisen to its old order of supreme authority with its autocratic and cruel exactions from the people."

Mr. Lockhart added, that while the above list could be supplemented ad infinitum, it would suffice nevertheless to show the havoc wrought by Borodin and his band of intriguers, on whom most of the blame would perforce have to be placed.

I have [etc.]

FERDINAND MAYER

893.00/9681

The Chargé in China (Mayer) to the Secretary of State

[Extracts]

No. 1278

PEKING, November 21, 1927.

[Received December 28.]

SIR: In accordance with the Department's instruction No. 78, of October 9, 1925,²⁵ I have the honor to submit the following summary, with index,²⁶ of events and conditions in China during October, 1927:

The present condition of unrest in the country was punctuated in August by the virtual collapse of the Nanking Nationalist Government at the time of the resignation of General Chiang Kai-shek and was emphasized in September by the unabated interplay of centrifugal and disruptive forces in the South as well as by the outbreak of hostilities in North China between Fengtien and Shansi. During October even greater instability than previously characterized the politico-military situation throughout the larger part of China.

Illustrative of the division of the country at the end of the period covered by this report into mutually antagonistic groups for the most part, Mr. George E. Sokolsky, an American political writer on Chinese affairs, indicated in an article published in the *North China Daily News* of October 29th, that after sixteen years of fighting to achieve unification China was now divided politically as follows:

1. The Peking Government.
2. The Nanking Government.
3. The Wuhan Government.
4. The Shansi Provincial Government.
5. The Feng Yu-hsiang independent areas.
6. The semi-independent Canton Government in closer alliance with Nanking than any other group.
7. The independent feudal areas of Szechuan.
8. Yunnan (details not clear).
9. The more or less independent Mohammedan states in the Northwest.
10. The Soviet Republic of Mongolia.

Analyzing the present conditions from the point of view of Soviet influence in China, the Legation telegraphed the Department on October 27th²⁵ that while communism had suffered a temporary eclipse Consular reports indicated that the communists had been scattered but by no means definitely eliminated and that they remained a serious potential danger, being ever ready again to become active if and when

²⁵ Not printed.

²⁶ Index not printed.

the Soviet should perfect another plan of intervention. The Legation added that although there had been a noticeable subsidence of anti-foreign agitation in Kuomintang territory American property there remained largely occupied and the position of foreigners uncertain, in certain instances even precarious.

CONDITIONS IN KUOMINTANG TERRITORY

The Legation's telegram of October 27th expressed the view that in the Yangtze Valley and in the south, where the cohesive and directive dominant Soviet influence has now been removed, the Kuomintang had practically disintegrated into several military factions whose groupings were characterised by impermanence and complete distrust of each other. It was stated that while temporarily able no doubt to combine for destructive purposes, these factions were seemingly incapable of cooperation toward the constructive establishment of government. Each group, it was indicated, continued to render lip service to "Nationalist" principles, claiming to be defending Sun Yat-sen's policies, but that it was evident that all were motivated by purely selfish aims. In short, the struggles of the period under review and of preceding months have reverted, generally speaking, to the character of Chinese civil wars prior to the time of active Russian intervention in China.

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RELATIONS BETWEEN HANKOW AND NANKING

In the Legation's monthly report for September reference was made to the fact that the question of the amalgamation of the Hankow and Nanking governments was not satisfactorily adjusted during that period. The uncertainty and confusion of a situation dependent, as Consul General Lockhart stated, "upon day to day developments", became if anything worse confounded during October.

The following paraphrased extracts from telegrams addressed to the Legation during the month by the American Consulate General at Hankow, suggest the troubled course of events:

October 1st: The Wuhan branch Political Council has issued a manifesto giving "*de facto*" recognition to the Nanking Government with respect to the following matters only: diplomatic transactions, the campaign against militarists, and the campaign against communists. The manifesto denies the right of the Special Committee at Nanking to assume the powers and privileges vested in the Central Executive Committee and all the acts of the Special Committee, with the exception of those enumerated above, are consequently disavowed.

October 7th: Chu Pei-teh, the Chairman of the Kiangsi Provincial government, together with General Chen Chien, Sun Fo, C. C. Wu, Chang Chi, and Han [*Hsu?*] Chung-chih are in Kuling as a committee to persuade Wang Ching-wei to support the Nanking government.

It is reliably reported at Hankow that Feng Yu-hsiang will shortly issue a proclamation launching an anti-northern expedition to support General Yen Hsi-shan's campaign.

General T'ang Sheng-chih has suddenly returned to Hankow from Changsha. This displacement is believed to have been hastened by developments in the Peking area and by Nanking's alleged decision to begin a northern advance.

October 10th: Representatives of the Nanking government including among others Sun Fo, Hsu Chung-chi, and Chang Chi arrived at Hankow from Kiukiang to conduct negotiations with a view to settling the differences which still exist between the Hankow and Nanking factions.

October 12th: At the above conference an agreement is reported to have been reached whereby T'ang Sheng-chih is appointed Commander-in-Chief of the combined Nationalist forces of the Nanking and Hankow régimes. It was further agreed that all special councils functioning at Hankow such as political councils, military councils, and the Commission of Foreign Affairs be abolished and that the Hankow government would recognize the Nanking government as the supreme governmental authority in China. It thus appeared that General T'ang Sheng-chih's appointment as the head of all the Nationalist forces was compensation for the abolition of the skeleton of a government now functioning at Hankow.

October 18th: In spite of the protestations of an accord between the Nanking and the Hankow factions there is excellent reason to believe that there still exists misunderstanding and friction between the two groups. T'ang Sheng-chih and Wang Ching-wei are apparently most reluctant actively to associate themselves with the Nanking régime.

October 23rd: Hankow newspapers publish a manifesto by the Wuhan Political Council of October 21st declaring exclusive authority to deal with all party, military, and political affairs in the territory under its jurisdiction pending the restoration of the functions of the Central Executive Committee. This in some quarters is looked upon as a virtual declaration of war against Nanking.

October 25th: General T'ang Sheng-chih made public a circular telegram also dated the 21st of October denouncing the Nanking Special Committee and ending thus:

"I am going to fight, at the head of the celebrated good troops, against the usurpers at Nanking. I fight for the unification of the party and the nation. I fight for the interests of all".

October 29th: Reports from Chinese sources indicate that T'ang Sheng-chih's position is somewhat precarious and that he may have to retreat to Hunan. Meager information from the Ichang front indicates that T'ang's troops are encountering resistance there. Wu-

han troops have completely evacuated Anhwei before the advancing Nanking forces who are locally expected to continue their advance to Hankow.

FENGTIEN-SHANSI CLASH

The hostilities between Chang Tso-lin and Yen Hsi-shan which broke out at the end of September, as reported in the Legation's summary of conditions for that month, assumed considerable proportions during the first half of October and the Fengtien forces, which seem to have been taken completely by surprise, met with decided reverses at the beginning of the campaign. The Legation was informed by its Military Attaché, however, that by October 11th it became certain that the sudden Shansi onslaught had been checked. Major Magruder stated that during the last fortnight of October the war was marked by the assumption of the strategic defensive on the part of Shansi. He added that there was no sign of any immediate decision, at the end of the period under review, in this continuing struggle in the area of the Great Plain, between the Ankuochun and the apparently uncorrelated forces of Shansi and the Kuominchun.

In our telegram of October 27th above-mentioned it was indicated that Chang Tso-lin, having driven the main body of the Shansi invaders back to the mountain passes, seemingly aimed at the line Tatung-Fuping-Niangtzukwan as his extreme objective pending negotiations with Yen Hsi-shan which Chang both desired and anticipated. It was further stated that in the meantime the Chihli-Shantung armies, having captured Kaifeng, were advancing along the Lung Hai Railway and threatening Chengchow, the attainment of which railway junction would directly embarrass Feng Yu-hsiang's position in Honan and would tend to induce Governor Yen Hsi-shan to come to terms with the Generalissimo.

CONDITIONS IN MANCHURIA

Japan's so-called "Positive Policy" in Manchuria and the question of the present and future development of that region and of Mongolia continued to exact much attention during the period under review. No significant anti-Japanese agitation of the sort reported during September occurred in October, however, as Major Magruder puts it, "in the never ending Sino-Japanese conflict in Manchuria".

I have [etc.]

FERDINAND MAYER

893.00P.R./1

The Minister in China (MacMurray) to the Secretary of State

[Extract]

No. 1327

PEKING, December 22, 1927.

[Received February 4, 1928.]

SIR: In accordance with the Department's instruction No. 78 of October 9, 1925,²⁸ I have the honor to submit the following summary, with index,²⁹ of events and conditions in China during November, 1927:

In October continuing instability had characterized the politico-military situation throughout most of China, this state of unrest to a considerable extent being attributable to the disintegration of the Kuomintang for the most part into mutually hostile groups. During November the militant rivalry of the various factions which had invaded the Yangtze valley from Canton was maintained and no amelioration of conditions can be recorded either in the areas immediately affected or in the general situation.

MILITARY ACTIVITY

According to reports by the Military Attaché to the Legation, from which this section is taken, actual fighting during November was confined, in the main, to North China, the Nationalist army having completed its disintegration into the personal forces of a number of minor leaders.

In the North, the most immediately important military event, from a political point of view, was a defeat experienced by the Chihli-Shantung armies in Honan during the first half of the month. This entailed at least a postponement of Ankuochun political consolidation within the Great Wall, whereas a defeat of Feng Yu-hsiang would probably have removed most of the obstacles to an understanding between Fengtien and Shansi.

On the 15th the Chihli-Shantung armies seemed to have rallied at T'angshan. Sun Ch'uan-fang continued to hold the line of the Hwai River in Anhwei and to recuperate his forces. At that time the Fengtien armies had made considerable progress in their warfare against Shansi, having taken Suiyang on the 9th on the north Shansi front. On the Kin-Han front at the middle of the month Shansi was on the defensive with Fengtien exercising only enough pressure to immobilize large elements of the opposing army.

At the end of the month, the Fengtien-Shansi war was still undecided. Yen Hsi-shan had withdrawn his troops in North Shansi to a

²⁸ Not printed.²⁹ Index not printed.

defensive line, Wu T'ai Shan—Fanchih (near Taichow)—Yenmenkuan, and Fengtien was exerting pressure there without marked success. South of Wu T'ai Shan there was little activity on either side. The town of Chochow still held out although it had sustained a siege by Fengtien since October 11th.

On the Tsin-Pu front Sun Ch'uan-fang's forces abandoned the line of the Hwai River and fell back half way to Hsuehchow, under what must have been light pressure from the Nationalist forces. Elements under the command of Feng Yu-hsiang were operating indecisively against the shaken Chihli-Shantung forces on the Lunghai Railway. Feng continued to be an enigma, reports seeming to indicate that he was bargaining concurrently with Nanking and Shansi.

DEVELOPMENTS IN CANTON

The American Consul in charge at Canton had reported in a despatch of the 31st of October that Li Chai-sum, the Kwangsi Military Commander, was still in control of the city at the end of that month in spite of an attempt on the part of Chang Fa-kwei, the returning Cantonese General, and certain radical labor leaders, to dispossess him. Apparently associated with Chang Fa-kwei was Wang Ching-wei. The latter, in an interview granted Mr. Huston early in November, stated that he had come to Canton to reconvene the Central Executive Committee whose powers had been usurped by the Military authorities in Nanking through the formation of the Extraordinary Committee (Special Committee).

In a telegram of November 5th, Mr. Huston informed the Legation that it was doubtful whether Li Chai-sum would give Wang Ching-wei more than nominal support, inasmuch as it was suspected that the provincial bond between Li Chai-sum at Canton and Li Chung-yan and Pei Chung-hsi, Kwangsi Generals dominating the situation at Nanking, would bind Canton and Nanking irrespective of Wang's attempt to form a national government in Canton. On the 17th Mr. Huston reported that Li Chai-sum together with Wang Ching-wei had left for Shanghai the day before to attend a Kuomintang conference there and that fighting had broken out in Canton on the same night supposedly between Cantonese and Kwangsi troops. On the 18th the Consul telegraphed that General Wong Ki-choung, Chief of Staff to Chang Fa-kwei, had taken forceful control of the city from Li Chai-sum's troops. He stated that the *coup* had come as a complete surprise and that the reasons for it were somewhat obscure, it apparently being the result of activity on the part of the Canton radical labor unions and of a "Canton for the Cantonese" movement, which had recently linked up with Chiang Kai-shek against the

Kwangsi military clique in Nanking. Chang Fa-kwei thus came into control of Canton, "the cradle of Chinese revolution."

In this general relation the American Consul General at Shanghai telegraphed the Legation on November 22nd that Chiang Kai-shek had stated some days previously that he would resume his activities in the Nationalist revolution in compliance with widespread popular demand, not as a Generalissimo, but as a member of the Central Executive Committee of the Kuomintang and probably as a liaison officer between the civil and military committees. Mr. Cunningham reported that Chiang Kai-shek was understood to have become reconciled with Wang Ching-wei, the Canton *coup* having raised Wang to power and shaken, if not overthrown, the Kwangsi military clique which had recently ousted Chiang Kai-shek. The Consul General further reported that Chiang said at that time that a scheduled conference of the Central Executive Committee at Nanking at the end of November was expected to result in the unification of the Canton, Nanking and Wuhan factions with the party as solid as before the Wuhan split, adding that should this be accomplished a military drive against Peking would follow and would be successful within two months. It is perhaps needless to say that these plans did not materialize during the period covered by this report.

Mr. Cunningham, in the same telegram, also informed the Legation that Wang Ching-wei had stated that he was preparing a statement on his position in which would be stressed the necessity of eliminating communistic doctrines from the Kuomintang platform. In view of Wang's previous position as a leader of the left wing, his volte face in regard to communism must remain somewhat enigmatic.

RELATIONS BETWEEN HANKOW AND NANKING

By the end of October, as indicated in the Legation's summary of events in that period, it had become evident that T'ang Sheng-chih's position in Hankow was precarious and that he would not long be able to resist the advance up the Yangtze of the Nanking forces. The following paraphrased extracts from telegrams addressed to the Legation by the American Consulate General at Hankow outline the course of events during November in this regard:

November 8th. On the Anhwei-Hupeh border heavy fighting between the Wuhan and Nanking forces is reported to be in progress. The Wuhan cities are orderly except for minor disturbances connected with the depreciated currency and the efforts made to displace the shop branches of the employees union.

November 12th. A general military conference was held at Hankow yesterday between Ho Chien and Liu Hsing who have returned from the front. T'ang Sheng-chih has resigned and he has left

Wuhan early today. The troops of Ho Chien are arriving at Hankow in considerable numbers, fatigued but without evidence of disorder. With the elimination of T'ang the future relations between Ho Chien and the Nanking forces are uncertain but Ho is entrenching at Hanyang.

November 14th. The military leaders Ho Chien, Liu Hsing, and Li Ping-hsien, with their troops, have left Wuhan for Hunan leaving a garrison commander, Ho Kuo-kwan, to maintain order and to turn over to Nanking forces, which, if no lower river complications arise, are expected very shortly.

November 21st. The Nanking forces completed the occupation of Wuhan without local disturbance on November 17th. The defeated Wuhan forces are understood to be concentrating at Yochow and Changsha and a conflict in Hunan between them and the Nanking forces is possible. The Nanking government proposes to form a Hunan-Hupeh provisional political affairs committee to govern the two provinces pending the reorganization of their respective governments.

November 23rd. At Hankow Chinese officials state that delegates are being sent to Changsha to negotiate peace with the defeated Wuhan forces and that there is a good prospect of the discontinuance of military operations in Hunan.

November 26th. The office of the Commissioner of Foreign Affairs gave out that following a meeting between military leaders in Hankow on the 25th, General Chen Chien (of Nanking fame) decided to accept the Chairmanship of the Hunan-Hupeh Provisional Political Affairs Committee which will be organized and start functioning in very near future.

Regarding the actual arrival of the Nanking troops at Hankow the American Consul in charge in a despatch of November 28th reported *inter alia* that their advent was orderly; that they passed the thoroughly barricaded foreign concessions and Special Administrative Districts without attempting entry and quartered themselves in the native city of Hankow, in Hanyang and Wuchang; and that beyond the usual commandeering of Chinese-owned residences in the Special Administrative Districts for officers' quarters those areas had not so far suffered from the presence of the Nanking authorities.

CONDITIONS IN MANCHURIA

In continuation of previous communications on the subject of Japan's so-called "positive policy" in Manchuria, the American Consul in charge at Mukden, in a despatch of November 23rd, indicated, under the peculiar conditions existing in that region, namely (1) the control by Japan of the principal arteries of communication, (2) the presence of her military forces at important centers along Japanese-owned railways, and (3) the existence of numerous Japanese

settlements along these lines, that the eventual result logically would seem to be political absorption. Mr. Myers stated, however, that for the present the Japanese would probably be content with the advancement of their economic interests, more especially those relating to railway construction which, according to Japanese official statements, was the nucleus of current Sino-Japanese negotiations. He reported that it evidently was desired to avoid a violent outburst of anti-Japanese feeling on the part of the Chinese, and that consequently the negotiations were not likely to be carried further than the Chinese were prepared to go.

With reference to the propaganda now being conducted in support of Japanese aspirations in Manchuria, Mr. Myers remarked that the assertion was frequently met with in recent Japanese press articles and in the statements of her public men, that Manchuria is not an integral part of China. Examining this contention, he observed that although Manchuria was not comprised in the eighteen provinces, it had been brought under the hegemony of China when the Ch'ing dynasty ascended the Dragon throne in 1644 and that, after Manchuria had been thrown open to Chinese immigration, about one hundred and twenty-five years ago, the Chinese population had grown very rapidly, at present comprising about ninety per cent of the total population estimated at over 27,000,000.

I have [etc.]

J. V. A. MACMURRAY

893.00 P.R./2

The Minister in China (MacMurray) to the Secretary of State

[Extracts]

No. 1366

PEKING, January 26, 1928.

[Received March 3.]

SIR: In accordance with the Department's instruction No. 78, of October 9, 1925,³⁰ I have the honor to submit the following summary, with index,³¹ of events and conditions in China during December, 1927:

As the most outstanding characteristic of the year 1927 in China was Soviet Russian immixture in the internal affairs of the country, so also was the abortive communist uprising of December 11th at Canton, entailing as it did a severance of relations with the Soviet Government on the part of the Nationalist régime, the most significant single occurrence of the month under review.

³⁰ Not printed.

³¹ Index not printed.

Among other important consequences the break with Soviet Russia by the Southern elements gave rise, during the month, to the supposition, in view of the long established anti-communist policy of the Northern leaders, that the way might have been opened for negotiation between the Kuomintang and the Ankuochun. Little evidence was forthcoming, however, that this opportunity for reuniting the country would be capitalized in the near future and again the conclusion must be drawn that personal motives rather than abstract political principles are the cause of the present dissensions among those who seek to govern China.

Marshal Chang Tso-lin's forbearing attitude toward the Soviet régime was not altered by the events in South China. It has been more circumspect than that of his Nationalist rivals by reason of Soviet interest in the Chinese Eastern Railway and the extensive and not easily guarded frontier separating the two countries.

CONDITIONS IN CANTON

As indicated above a communist uprising took place in Canton during the month under review, which was said in Chinese circles there to have been the worst disaster that the city has suffered in recent times. Reports from the American Consul at Canton indicated that on the morning of December 11th a so-called peasants, workers, and soldiers army, 5,000 strong, seized control of the city. The rebels, which were the riff-raff workers of Canton, linked up with certain robber bands from the country districts and disarmed the police while the bulk of the dominant military clique's troops were concentrating at outside points. The troops which were rushed to Canton succeeded in crushing the revolt on the morning of the 13th but the city had been given over to general looting for forty-eight hours and large sections of it were burnt.

The Legation was informed that on the 12th the situation began to look ominous for foreigners because of the expressed intention of the communists to deal with them after gaining control of the situation. It had seemed advisable to evacuate Americans from certain parts of Canton and Consul Huston and Commander Giffen of the U. S. S. *Sacramento* cooperated in evacuating for that day some fifty Americans and thirty-one other nationals.

After an examination of these occurrences Mr. Huston concluded that this effort on the part of the Russians to establish a government in Canton along Soviet lines differed from previous attempts in that the movement of December 11th was purely communistic and based upon the belief that the workers would rise and take control of the city. It seemed that in their initial speeches and proclamations the agitators promised every member of the proletariat who joined them

\$20 and a rifle, freedom to loot, freedom from debt, food, wealth, and a house to live in. Mr. Huston reported that, in spite of these extravagant offers in a city that boasted a union membership of some 300,000, the Russians were understood to have marshalled only 3,000 of the riff-raff workers of the city who, combined with a thousand or more persons belonging to peasant robber bands and about an equal number of so-called red troops which were bought over, constituted the "red guards."

Mr. Huston apprised the Legation that at the crucial moment in the revolt, after they had obtained control of the city and after twenty-four hours of burning and looting, the so-called peasants and the soldiers deserted, taking their loot with them. Furthermore it appeared that a large number of troops failed to take part in the proletarian struggle, leaving the Soviet leaders and the workmen who had joined them to suffer execution at the hands of the incoming troops.

The Consul stated that the manner in which the communists allowed the reds to burn the city and in many instances to shoot the owners of the houses which the latter tried to save, aroused the fierce hatred of the Cantonese against both Russians and communists. He indicated that Canton's retaliation was the shooting of hundreds, many undoubtedly innocent, together with the summary execution of some eight or nine Russians including a Soviet Vice Consul. On December 17th 600 Chinese were executed in one group and executions continued thereafter.

On December 21st Mr. Huston telegraphed that the situation was becoming less tense and that it was expected that the Cantonese leader, Chang Fa-kwei, would resign and leave Canton, certain subordinates of Wang Ching-wei having already done so. It was reported at that time that Li Chai-sum, the Kwangsi military commander whom Chang Fa-kwei had ousted in November, was coming back in spite of the existence of opposition to his or to any other Kwangsi men's taking over. It was the Legation's understanding, however, that Chang Fa-kwei was still in Canton during the last week of December and it was rumored that he was preparing to resist Li Chai-sum's return, which did not occur during the period covered by this report.

EVENTS AT SHANGHAI

Reverberations from the Canton *coup* were heard along the Yangtze and in most of the rest of China. On December 15th the American Consul General at Shanghai informed the Legation that he had that afternoon been handed, by the chief clerk of the Bureau of Foreign

Affairs, a mandate of the Nanking Nationalist government, dated December 14th, announcing the severance of relations with Soviet Russia. The mandate set forth that the Nationalist government for sometime had been aware that Soviet Consulates and Soviet State Commercial Agencies in areas within its jurisdiction had been used as headquarters for red propaganda and as asylums for communists. It referred to the uprising at Canton as being mainly to be attributed to the fact that the communists had availed themselves of the Soviet Consulate and Soviet State Commercial Agencies as a base for their operations and it contained an expression of the fear that occurrences of a like nature might take place elsewhere. The recognition accorded to the Consuls of the Union of the Soviet Socialist Republic[s] stationed in the various provinces was accordingly withdrawn and the Soviet Commercial Agencies in the various provinces were ordered to suspend their functions.

In delivering this mandate the chief clerk informed Mr. Cunningham that he was on the point of delivering the passports for fifteen Soviet consular officers and their families, who had been given until December 21st to leave the country.

On December 23rd Mr. Cunningham telegraphed that the German Consul General at Shanghai, in accordance with arrangements made between Moscow and Berlin, would take over, on the 24th, the civil but not the political interests of the Soviet Consulate General.

Respecting conditions within the Kuomintang, Mr. Cunningham apprised the Legation that a meeting of twenty-nine members of the party, including Chiang Kai-shek and Wang Ching-wei, was held at the former's residence in Shanghai on December 10th when resolutions were passed calling for Chiang's reinstatement as Generalissimo, and for the convening of the fourth plenary session of the Kuomintang at Nanking, from January 1st to 16th, 1928. Mr. Cunningham stated that it was significant that most of the members of the Nanking group refrained from attending the meeting and that they consequently had no voice in framing the resolutions.

On December 28th the Consul General reported that Chiang Kai-shek had stated that he would accept the position of Generalissimo and that he expected to capture Peking within three months. It appeared that Chiang was formally to take office during the first week of January, whereupon C. C. Wu would resign from the cabinet, probably being replaced by Huang Fu, in recognition of Feng Yuxiang's growing power in Nanking. C. T. Wang's name was also mentioned for the Ministry of Foreign Affairs. Apparently the secession of the Wuhan faction from Chiang's support was increasingly evident, which left Chiang's party in control only of Chekiang and Kiangsu. Mr. Cunningham added that Wang Chiang-wei had already

resigned and that the re-alignment outlined was felt to constitute a backward step in party government, and to spell ruin for any existing hopes of party unity.

CONDITIONS IN HANKOW

As indicated in the Legation's monthly report for November, Nanking forces occupied Hankow at the end of that month. On December 1st the Legation was apprised by the Hankow Consulate General that Hu Tsung-tu, the new garrison commander there, probably would be appointed chairman of a Hupeh Provincial Government and that the result of this movement would be to render superfluous the Hunan-Hupeh Provincial Political Affairs Committee, of which General Chen Chien was to be the chairman, but about which no official announcement had yet been made. This plan did not materialize. In a telegram of December 6th Mr. Lockhart intimated that there was growing friction between Generals Hu Tsung-tu and Chen Chien over the question of the control of Hupeh. Six days later the Consul General received and filed without acknowledgment the official notification of the establishment of the Hunan-Hupeh Provincial Political Affairs Committee, with General Chen Chien as chairman, an organization nominally supreme in those two provinces but with little authority. Hu Tsung-tu, the Wuhan garrison commander, controlled that area while Chen Chien was reported during December to be heavily engaged in Hunan with the forces of Ho Chien, who controlled Changsha.

Regarding conditions at Ichang and from Ichang to Wanhsien, Mr. Lockhart reported on December 23rd that a superficial improvement was manifest by reason of a more complete control of the region by Yang Sen and the temporary absence of war preparations.

In the same telegram Mr. Lockhart stated that according to reliable reports from Chungking conditions there were tranquil and the attitude of the Chinese friendly to all foreigners. He added, however, that these same reports showed that Americans and other extra-territorial foreigners had been forced to subscribe to a military loan, this constituting a further step in the break-down of their extra-territorial status in an area where tranquillity and friendliness had no better guarantee than that afforded by transient and localized military authority.

Adverting to the Canton *coup* and its effects, Mr. Lockhart was informed by the Commissioner of Foreign Affairs on December 15th that the latter had received orders from Nanking to close the Soviet Consulate at Hankow and to arrest the communists. On the morning of the 16th the Soviet Consulate accordingly was raided by several hundred Chinese troops and a large number of arrests of

communists at the Consulate and in the concessions and in the native city was made, the Soviet Consul General, his staff and his wife, being temporarily given refuge at the residence of the Commissioner of Foreign Affairs before deportation. Mr. Lockhart reported that the raid was conducted in an orderly fashion, and that no firing had occurred except accidental discharges of fire arms. The Soviet Consulate was subsequently occupied by the Wuhan garrison commander.

MILITARY ACTIVITY

According to reports by the Military Attaché to the Legation, from which this section is taken, serious fighting was confined in December, as in November, to North China. Early in the month Feng Yu-hsiang was exerting pressure against the Chihli-Shantung armies along the Lunghai railway and by the 5th he seemed on the point of gaining a decisive victory in the capture of Hsuehowfu, the junction point of the Lunghai and Tsin-Pu railways. He was repulsed, but the Nanking armies advanced upon the same point immediately thereafter and Hsuehow finally fell into Nationalist hands on December 16th. Its capture enforced on the Northerners the abandonment of all points on the Lunghai railway including Haichow, which was evacuated on the 19th. The capture of Hsuehow was significant in that it entailed the establishment of practicable contact between the Kuominchun and the Nationalist armies in Kiangsu and it appears to have been followed by the prompt reiteration of Feng Yu-hsiang's allegiance to the Nanking Government and inferentially to Chiang Kai-shek.

While at the end of December only slight forces were opposed to a Nationalist advance in East Shantung all the way to the Kiaochow-Tsinan railway, this was not felt to be a matter of moment in view of poor communications and other obstacles presented to a winter campaign. On the Tsin-Pu front the Chihli-Shantung line was established at Hanchwang, near which point the railway crosses the Grand Canal, whence it ran west to the Grand Canal, it apparently being planned to hold the line of the canal itself all the way from Tsining to Tehchow. At the end of the month the Tsining area was the scene of heavy pressure by Feng Yu-hsiang, who launched an offensive from the vicinity of Tsaochow on or about the 20th of December which brought him almost to the walls of Tsining by the 23rd. There the Chihli-Shantung forces held, their intrinsic weakness being counterbalanced by Feng's shortage of munitions, and by the 27th of December the Kuominchun had fallen back towards Tsaochow.

Little activity is to be recorded in the Fengtien-Shansi war, the two armies seeming to have gone into winter quarters, with Fengtien probably withdrawing to the entrance passes of the mountain barrier. On the 28th a peace delegation from Yen Hsi-shan arrived in Peking, but

their negotiations apparently were not brought to a definite conclusion. It was felt, however, that the growth of Feng Yu-hsiang's influence at Nanking might facilitate the ultimate conclusion of an agreement between these two contestants. The town of Chochow still held out at the end of December although negotiations for its surrender to the forces of Marshal Chang Tso-lin were in progress.

I have [etc.]

J. V. A. MACMURRAY

MEASURES TAKEN BY THE UNITED STATES FOR THE PROTECTION OF AMERICAN LIVES AND PROPERTY IN CHINA

893.00/8023 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 10, 1927—3 p. m.

[Received 3:35 p. m.]

20. Following from American company [*consul general*,] Shanghai:³²

"January 8, 6 p. m. Following sent after consulting Armstrong³³ who is repeating same message to commander in chief:³⁴

In view of recent unexpected turn of events up river which obviously exceeds situation contemplated on point 2,³⁵ it is recommended that in order to give adequate protection to foreign life and property at Shanghai and to attempt to prevent seizure of Settlement and cannonading foreign-occupied area by mob violence as at Hankow and Kiushu, landing forces Shanghai should be increased to available maximum immediately upon Sun Ch'uan-fang's³⁶ initial defeat or indications of any local disorders. Situation Shanghai at present outwardly quiet but highly inflammable upon initial defeat of Sun by Southern forces as is probable.

Events in Hankow [and] Kiukiang, give adequate indication of intention of radical element of Nationalist[s] in my telegram of December 30, 3 p. m.³⁷ The Legation appreciates that no distinction as to nationalities will be possible at Shanghai, all foreign lives and interests being equally in danger in the event of mob disturbances."

MACMURRAY

³² Clarence E. Gauss was in charge of consulate general at Shanghai Sept. 8, 1926, to June 7, 1927, in absence of Consul General Edwin S. Cunningham.

³³ Commander Eldred B. Armstrong, U. S. N., commanding the U. S. S. *Asheville* of the Asiatic Fleet.

³⁴ Admiral Clarence S. Williams, U. S. N., commander in chief, Asiatic Fleet.

³⁵ See telegram No. 627, Dec. 19, 1926, from the Minister in China, *Foreign Relations*, 1926, vol. I, p. 662.

³⁶ Military overlord of Provinces of Kiangsu, Kiangsi, Chekiang, Fukien, and Anhwei, and concurrently director general of Shanghai and Woosung Port Administration, allied with Peking Government.

³⁷ Not found in Department files.

893.00/8023 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, January 11, 1927—6 p. m.

9. Your 20 of January 10, 3 p.m. I desire your comment on the following questions, having in view the British withdrawal from their Hankow Concession:

1. Understanding of the Department is that British Government has ordered British nationals to leave points in the interior for places of safety. Do you recommend that this Government take similar action?

2. Do you know what course other interested powers intend to take in regard to protecting their interests at Shanghai?

3. Do you continue to recommend, in case an emergency arises, that we land all forces necessary and cooperate with other powers to protect American citizens in the International Settlement and the adjoining areas at Shanghai from concerted external attack, or to prevent incursion of defeated troops, or to suppress mob violence? Consult your telegram 67 [627] of December 19, 1926, 10 a. m.³⁸

4. Will the reaction upon American citizens scattered throughout the interior of China be unfavorable if the United States joins other powers to defend against concerted attack, or for the other above-named purposes, the life and property of its nationals at Shanghai?

KELLOGG

893.00/8050 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 13, 1927—2 p. m.

[Received January 13—11:35 a. m.]

26. My 20, January 10, 3 p. m. Following from American consul general at Shanghai:

“January 11, 7 p. m. Consular body today considered letter just received from Municipal Council³⁹ saying that, although at the moment it would not appear absolutely necessary to land the foreign forces contemplated in their previous informal recommendations to the consuls, the Municipal Council has the feeling that the presence of approximately one thousand men actually landed in the Settle-

³⁸ *Foreign Relations*, 1926, vol. I, p. 662.

³⁹ Of the International Settlement at Shanghai.

ment would quite possibly avert an incident attended by bloodshed which is bound to arise if trouble suddenly starts before sufficient troops can get here to deal effectively with the situation. Consular body agreed to refer the matter to consuls of naval powers, and, except as to Italian and myself, supported opinion of Council.

I am strongly opposed thereto and so stated that a premature landing at Shanghai would be seized upon by the agitators here as a pretext for further antforeign propaganda affording the spark to kindle the fire. I believe this possibility outweighs whatever sense of security any force landed now would give to foreigners and Chinese here, most of whom are very nervous. Shanghai at present is quiet and there is no cause of disorder imminent.

I believe presence of sufficient landing forces on ships in harbor is imperative but that they should not land until disorder or violence is unquestionably imminent.

I agreed to refer matter to American naval authorities but indicated that I would oppose landing.

It is evident that the British who are behind this proposal, and perhaps the Italians as well, expect to take a very strong attitude at Shanghai and if trouble actually occurs here I doubt whether bloodshed can be avoided. In these circumstances it is my opinion, and I so recommend, that Americans at interior points in this and adjoining Yangtze Valley districts should be advised to proceed without delay to treaty ports from which they might, if necessary, be evacuated. I request authority to that end. Foregoing will be communicated commander in chief upon his arrival.

Not repeated to Department."

2. I replied as follows:

January 13, 11 a. m. Your January 11, 7 p. m.

(1) I concur in your views with regard to possible danger of a premature landing at Shanghai and approve your attitude in the consular body meeting toward the recommendation of the Municipal Council.

(2) In the event of trouble occurring or becoming imminent, you are authorized to advise Americans at interior points or at smaller treaty ports to proceed without delay to places from which they may be evacuated. In such a contingency, you should also if necessary telegraph your action to consuls at Canton, Foochow, Amoy, Swatow, Nanking, Hankow, Changsha, and Chungking.

(3) I am advising the foregoing consuls of your recommendation regarding withdrawal and with the exception of Hankow and Changsha who have already been granted authority in the premises authorizing them, at their discretion, to advise the withdrawal of American citizens to places where they may be protected or from which they may be evacuated if necessary.

(4) Please communicate foregoing to commander in chief."

MACMURRAY

S93.00/8061 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, January 15, 1927—2 p. m.

[Received 3:37 p. m.⁴⁰]

32. Your 9, January 11, 6 p. m.

1. My answer to your third inquiry is affirmative, especially in view of telegram from Hankow January 12, 4 p. m., transmitted in my telegram 29, January 14, 1 p. m.⁴¹ Conditions are so inflammable in Shanghai that there is certain to be an explosion if the Nationalists extend control to that area unless the leaders of the Nationalists are convinced definitely that the limit of tolerance has been reached by the foreign powers and that the powers are prepared wholeheartedly to unite on a stand for the protection of their nationals and interests in Shanghai. The situation is one in which, it is my firm belief, the only possible escape from the necessity to employ force is an obvious readiness to employ it. With that in view there can be no distinction, I think, between defending the International Settlement and defending the lives and the property of residents. The forces for the purpose must, in case of need arising, defend what they are able to without differentiating among the nationals involved and without regard to questions of boundary. To distinguish between concerted attack by organized forces and mob violence would prove to be equally impossible. Throughout their recent campaign the characteristic tactics of the Nationalists have been to filter their men into hostile territory where later they would assemble as an organized and armed force. When in the midst of dealing with mob violence within the Settlement it is altogether likely that foreign forces would suddenly find themselves confronted with such Nationalist units. Therefore scope of any defensive measures to be taken to safeguard American and other foreign lives and property ought to be left to discretionary judgment of the military commanders.

2. In all probability the immediate situation of Americans who are in the interior, particularly in the part of the Yangtze Valley now under control, would be affected unfavorably if we joined other powers in defending Shanghai. However, my opinion is that this danger would in fact not be any greater than that which would be produced by a failure on our part to participate in such defense, which would inevitably carry with it a conviction that we are not ready to look out for our own. On the other hand the probability

⁴⁰ Telegram in three sections.⁴¹ *Post*, p. 241.

is that the situation of Americans in the interior would be improved in the long run by demonstrating resolution to protect our nationals.

3. Instructions have been issued by the British Government to its consuls within the area controlled by the Nationalists to advise all British subjects in interior places to concentrate at ports where protection can be given them. I understand that heed is not very generally given these warnings except in Szechuan and along the middle Yangtze in those places which have been affected more immediately by aggressive Nationalist action. I have given discretion in the matter already to consuls within Nationalist territory and now contemplate, whether it is decided to defend Shanghai or not, giving warning to Americans resident in the river region above Nanking that they should gather at places where their protection is possible. However, in view of grave responsibility which is involved in advising the abandonment of their institutions and livelihood and of the doubt whether in removing to a river port they would not expose themselves to an at least equal personal danger, I believe that until the possibility of serious trouble at Shanghai appears to be more imminent and certain it is premature to give such advice.

4. With regard to protective measures at Shanghai I understand that the British Government has as yet not arrived at a decision on what to do. This whole question has been discussed with me by my British colleague with utmost frankness. . . . I for my part am firmly of the opinion that the British, however reluctant they are to face the issue, must eventually decide to defend Shanghai at all costs; this not alone because of their enormous interests at Shanghai but also because of political and economic consequences to them elsewhere both in China and India if they surrendered their position at Shanghai. I am informed by the Japanese Minister that he has received no definite instructions in regard to the matter, but that he himself believes his Government intends to send for the defense of Shanghai at least as many men as the British or we do. He states further that his Government has not indicated any tendency to distinguish between maintaining the integrity of the Settlement and protecting Japanese and other lives and property. The French military attaché declares his Government is determined to defend its Shanghai Concession at all costs and doubtless is acting independently for that purpose, but unquestionably in the event of actual trouble it would be necessary for the defense of the French Concession and of the International Settlement to be coordinated. The Italian Minister indicated to me that while his Government has only a small landing force available it is prepared to join the British, Japanese, and ourselves in any defensive measures that may be undertaken.

5. I know you understand that an attempt to foresee the possible developments at Shanghai cannot be more than a calculation of eventualities which are likely to arise in a situation having several indeterminable factors. My best surmise as to the probabilities is all I can give you; and I may err perhaps on the side of apprehension. However, in a case potentially involving the lives of thousands of American nationals, I submit that we must face deliberately the most serious contingencies and plan for the possibility of the worst one that may eventuate. I am the more disposed to take this view because I have a well assured conviction that our best security for avoiding possibility of burning and looting of a port which is one of the foremost in the world and the massacre of a number of our nationals, with the various consequences which might result, is to be found in our possible joining with other interested powers in giving a resolute and wholehearted cooperation to make what indeed would be the last ditch stand in China as to foreign rights and foreign interests. We have our moral and legal responsibilities for China jointly with British and other nationalities participating in the International Settlement. So that we may at once know where we stand, I cannot recommend too urgently that the Department endeavor without delay to obtain assurances concerning the attitudes of the British and the Japanese, the powers principally involved. Unquestionably the hands of those responsible for maintaining law and order in Shanghai would be strengthened if you would let it be known generally, at the same time as inquiry is made as to the attitudes of those Governments, that our Government is ready to carry out its part in defending Shanghai in case use of force against the safety and the interest of our people should compel us to resort to force in order to protect them.

MACMURRAY

893.00/8068 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 16, 1927—3 p. m.

[Received January 16—2:30 p. m.]

35. Following from consul general, Shanghai:

"January 15, midnight. American, British, French and Japanese consuls met informally this afternoon to discuss reports that anti-foreign disorders are planned for Shanghai about January 20th to 25th. It is believed that activities of local Chinese authorities, with accompanying disappearance of Nationalist agents whose apprehension is sought, is likely to check the plans.

We agreed: (1) that the establishment of the patrol or cordon around the Settlement and foreign-occupied areas will likely not be

necessary until Sun Ch'uan-fang suffers a defeat in Chekiang; (2) in the event of local troubles, strikes, or other disturbances before such defeat, the naval forces in port or near at hand, assumed to be in the neighborhood of one thousand or perhaps fifteen hundred men, would probably be sufficient to reinforce local police and volunteers for the time being, if the situation should get beyond their control; (3) that the present situation does not indicate the necessity of following suggestion of municipal council to land one thousand men on shore at this time; (4) that the adequacy of the planned patrol or cordon system at any time in future largely depends on result or outcome of Hankow affair. If this outcome is unfavorable to status of concessions or settlements in China, much larger numbers than four thousand men would probably be necessary to defend foreign life and property at Shanghai for the reason that while our original scheme contemplated negotiations with the Cantonese forces upon their arrival for a *modus vivendi* to maintain peace and order and prevent friction, the situation at Hankow has demonstrated that so far it has not been possible to put any reliance on any understanding which might be reached with them. This conclusion was reached after British consul general disclosed confidentially that the result of investigation at Hankow shows that Chinese authorities agreed to maintain order and protect Concession by Chinese forces stationed outside the borders provided British marines were withdrawn. Following such a withdrawal, mob and soldiers overran and took possession of concession."

MACMURRAY

893.00/8067 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 16, 1927—4 p. m.

[Received January 16—9:55 a. m.]

36. Referring to my telegram No. 35, January 16, 3 p. m. Gauss adds to his telegram the following confidential message:

"Having discussed foregoing with the commander in chief he suggested desirability of my adding following paragraph which is along the lines of what he will report and which is my own view: It is desired to point out that in the event of Chiang Kai-shek's⁴² appearing before Shanghai with an army with the intention of taking possession of the Settlement with or without assistance of the mob, any naval landing forces would be entirely inadequate to meet the situation. If the powers wish to ensure inviolability of the Settlements and protection of life and property it would be necessary under these conditions to bring troops here for that purpose, and the number necessary has been variously estimated at about twenty thousand."

MACMURRAY

⁴² Commander in chief of the Cantonese Northern Expedition. Also known as Chiang Kai-shih and Chiang Chung-cheng.

S93.00/8078 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, January 18, 1927—8 p. m.

[Received January 18—3:10 p. m.]

50. I am led to believe by the very serious rioting at Foochow and the looting of the American premises there—by Nationalist soldiers rather than by an unorganized mob—coincidentally with situation in Yangtze region, that we ought to consider immediately whether it is advisable to send additional American naval forces to Chinese waters with a view to possible necessity of increasing effectiveness of the Asiatic Fleet—which is a matter to be determined primarily by the commander in chief—and also, and principally, with consideration of the reaction here. My opinion is that the most effective prevention we can devise against a development of the present situation which would be more dangerous if not disastrous is preparedness for eventualities, even though I am trusting that will not take place.

MACMURRAY

S93.00/8154

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Johnson)*

[WASHINGTON,] January 20, 1927.

Conversation

Mr. Sao-Ke Alfred Sze, Chinese Minister.

The Secretary of State.

(Mr. N. T. Johnson present.)

Subject: The Chinese Situation.

The Chinese Minister called upon the Secretary today. He stated that it was his understanding that the instructions given to the American Navy in going to China were that they were there for the purpose of protecting American life and property. The Secretary stated that the Minister understood the matter correctly; that it was our purpose to do everything possible to afford the protection to American citizens which the Chinese seemed unable to give.

The Minister stated that he thought that the actions at Foochow against missionaries were those of northern soldiers. (The Secretary was out of the room to attend a press conference for a moment and during this interval Mr. Johnson informed the Minister that the Department had been informed by its Consul at Foochow that the attacks on missionaries there were by soldiers presumably under the control of the Nationalist authorities and that the Consul had attempted to see the Nationalist commander and get him to do something to protect Americans but that the Nationalist commander had

refused to see him or to make any promises of protection. The Chinese Minister stated that he thought that undue importance was given to these matters and stated that he himself here in Washington was constantly being pressed by excited Chinese who were complaining of ill treatment of immigration officers in the United States.)

When the Secretary returned to the room the Chinese Minister stated that he had sent a personal telegram to Eugene Chen at Hankow urging him to take measures to see that the agitations against missionaries were stopped. He said that he did not know what effect his telegram would have but that he hoped it would have some effect. The Chinese Minister stated that the Chinese were very much confused as to the policy of the United States; that he felt that the United States should make some statement as to its policy with regard to China. The Secretary stated that he had not had time to consider this matter as we were more preoccupied with the question of protecting American citizens. He asked the Chinese Minister whether he knew what was going to happen at Shanghai or what the attitude of the Nationalist authorities at Shanghai was. The Chinese Minister stated that he did not know; that he did not believe that there would be any trouble at Shanghai. He said that the situation at Shanghai was complicated because the northern leaders at Shanghai intended to collect surtaxes on foreign trade and that, inasmuch as 40 per cent of the foreign trade of China passed through Shanghai, this meant a very large increase of funds for the use of the partisans who were opposed to the Nationalist cause. He was afraid that this would make for trouble. The Secretary stated that we were making every effort to maintain a neutral attitude toward this conflict. The Chinese Minister again referred to the question of a statement of policy and the Secretary stated that he would like to talk to the Minister about that sometime and that he would like to see the Minister some day and talk about the subject. The Chinese Minister said he would be very glad to have this opportunity so to talk. The conversation here ended.

N[ELSON] T. J[OHNSON]

893.00/8183

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Johnson)*

[WASHINGTON,] *January 24, 1927.*

Conversation

Mr. Sao-Ke Alfred Sze, Chinese Minister.

The Secretary of State.

(Mr. Johnson present.)

Subject: The Chinese Situation.

The Chinese Minister called at 12 o'clock today and stated that he had two urgent messages from his Government to communicate to

the Secretary. The first one related to the reports of additional forces being sent to China by the United States and Great Britain. He stated that his Government wanted to know whether this Government knew whether the British Government in adding to its forces in China was pacifically minded. He stated that instructions had also been sent to the Chinese Minister at London to inquire on this point. To this question the Secretary stated that he had no information. He stated that we were not in consultation with the British as to their purposes and he had no information as to what their plans were. He assumed that the British were taking such measures as they considered necessary to protect British life in China against attack.

The Minister stated that he had been given to understand in a previous conversation that the United States had not added to its forces in Chinese waters; that recent statements in the press had given his Government some worry and he wanted to get any information that we could give him on this subject. The Secretary stated that he was not aware that we had increased the number of our vessels in Chinese waters. Mr. Johnson explained here that the American Asiatic Fleet was based at Manila; that portions of the Fleet were constantly in Chinese waters and that during recent events several destroyers from Manila had gone to Shanghai and other ports, as had also the Admiral's Flagship. The Secretary stated that the United States had no desire to make war on China; that it was necessary for us to give such protection as we could to American citizens residing in China when the Chinese authorities would not protect them; that to this end our Admiral was in Shanghai and our gunboats were at Shanghai and other places. The Chinese Minister referred to the fact that the Germans had been able to go about unprotected without the necessity of German war vessels; that he thought there ought to be some way in which Americans should distinguish themselves so that they would not be subject to attack. The Secretary asked the Minister whether he did not think that the Chinese Government ought to see to it that no foreigners were attacked whatever their nationality and pointed out to the Minister that at Shanghai American citizens were scattered about in a large community composed of British, Germans, Japanese, French, Spaniards, and others, and that it was very difficult to see how these people could be segregated. He also stated that American naval vessels must do what they can to protect these citizens and that they would cooperate with other Powers in this regard as was customary in such matters. He wanted to know whether the Chinese Minister knew whether the Chinese intended to attack the International Settlement at Shanghai and precipitate a general attack on foreigners there. The

Chinese Minister stated that he felt certain that the Chinese did not intend to do such a thing, but that he was not informed of their plans.

The Minister said that the other message which he had to communicate to the Secretary was in the nature of an appeal from the Foreign Minister, Mr. Wellington Koo, to the Secretary to take the initiative in breaking away from the old unequal treaties.⁴³ He said that Mr. Koo had, in making this appeal, referred to previous acts of friendship on the part of the United States and hoped that the United States at this time would again come to the front in making it possible for China to have a new deal in the matter of treaties. The Secretary stated that he was not prepared to make a reply to this appeal; that the Minister might inform Mr. Koo that he was considering making a statement with regard to the American policy which the Minister believed would be satisfactory. The Secretary then informed the Minister that he was considering making a public statement and that he was very anxious to know what the Minister wanted him to say. The Secretary asked the Minister whether it would be satisfactory if he stated that we were prepared to negotiate with anyone representing China for a revision of the tariff provisions of the treaty with a view to granting complete tariff autonomy to China. The Chinese Minister stated that this would be very satisfactory. The Secretary stated that, of course, in such negotiations the United States would desire to ask for most-favored-nation treatment; that the goods of American citizens and their business would not be taxed greater than would be the goods or business of other nationals. The Chinese Minister stated that, as regards to most-favored-nation treatment, he felt sure that his country would be glad to grant such terms. He stated that the experience of China in connection with the most-favored-nation clause of the treaty had been most disastrous and that they would wish to make it certain that these clauses would not react unfavorably to them in the future. The Secretary stated that, as regards extraterritoriality, the United States would be ready to discuss the questions therein involved with the Chinese. Of course we would expect that the Chinese would guarantee the protection of their courts for American citizens; he wondered if this would be satisfactory to the Chinese, to which the Chinese Minister stated that he could without hesitation say it would. The Secretary stated that he did not wish this conversation to be reported or in any way made public, but that he desired to ask these questions of the Minister for his own information.

⁴³ For correspondence concerning the revision of Chinese treaties regarding tariff control and extraterritoriality, see pp. 341 ff.

The Chinese Minister expressed some regret that he was not able to give some more definite message to Mr. Koo's appeal to the Secretary, as he felt that some reply to that would do very much toward relieving the tenseness of the situation now existing. The Secretary stated that he was not prepared to make any reply other than that which he had given him, namely, that the Minister might telegraph Mr. Koo and state that he had seen the Secretary who had listened sympathetically to the appeal of Mr. Koo and that he was considering a statement of policy which the Minister felt would be quite satisfactory. The conversation ended here.

N[ELSON] T. J[OHNSON]

893.00/8034

The Secretary of State to the Minister in China (MacMurray)

No. 413

WASHINGTON, January 25, 1927.

SIR: The Department has received from the American Vice Consul in charge at Changsha a copy of his despatch to the Legation No. 651, of December 13, 1926, entitled "Political Situation in Hunan".⁴⁴ The Department has found this despatch exceptionally well written and informing, and desires that its commendation be conveyed to Mr. Vincent.

The Legation's attention is invited, however, to two passages to be found on page 7 of the despatch, in which Mr. Vincent announced his intention of obtaining American naval armed guards for the protection of American property after such property is no longer in use and presumably has been vacated. The Department is of the opinion that the employment of American naval detachments in this manner is neither feasible nor, as a general rule, warranted, and desires that you should so inform Mr. Vincent. American owned property that has been vacated by American citizens and closed should be placed formally under the protection of the authorities in control, with the statement that the latter will be held responsible for the preventing of unauthorized entrance and the inflicting of any damage.

I am [etc.]

For the Secretary of State:

LELAND HARRISON

[Assistant Secretary of State]

⁴⁴ Not printed.

893.00/8136 : Telegram

The Secretary of State to the Chargé in China (Mayer)

[Paraphrase]

WASHINGTON, January 25, 1927—6 p. m.

26. Following message sent by Navy to Admiral Williams:

"In your opinion should we join in defending Shanghai Foreign Settlement or confine ourselves to defense of American lives and property and not undertake keeping Cantonese out of the Foreign Settlement? To cooperate fully in defending Shanghai Settlement how many troops will you need in addition to twelve hundred marines from San Diego? Should we undertake negotiation for neutrality of the Settlement with Cantonese? Have British entered into such negotiations?"

In your opinion is it possible to negotiate with all the forces concerned for a guarantee of neutrality of the area of the Shanghai International Settlement? Have you knowledge whether British are discussing such a matter with Cantonese forces or any other forces? I am inclined to think such conversations are in progress at Hankow.

KELLOGG

893.00/8147

*The British Embassy to the Department of State*⁴⁵

No. 56

His Britannic Majesty's Ambassador presents his compliments to the Secretary of State, and has the honour to inform him that he has been instructed to make the following communication to the United States Government concerning the attitude of His Majesty's Government towards the present situation in China.

His Majesty's Government are of opinion that the lesson of recent events at Hankow is grave. It shows that if the Chinese authorities cannot or will not control the mob and that if the mob gets out of hand, the Nationalist army will act with it rather than against it.

In consequence of what has passed there, where the pressure of a disorderly mob, encouraged by the authorities and closely supported by the Nationalist Army, forced upon His Majesty's Government the choice between immediate evacuation of the concessions or the resort to force with certain loss of life among the British subjects there including women and children in the residential quarters outside the concessions, His Majesty's Government have felt it necessary to review the whole situation in China.

⁴⁵ A reply was drafted by the Department of State, but was never sent; undated draft reply not printed.

The Canton forces under Bolshevik leadership and influence will be encouraged by this success to adopt similar methods at other settlements unless it is clear to them that not only is the force available amply sufficient to control the mob, but also to deal with the mob if reinforced as at Hankow by individual soldiers and backed by armed forces which would be immediately drawn into the conflict as soon as firing began. If this danger threatens, it will be necessary to evacuate other small settlements, but Shanghai and Canton (Shameen) stand on a different footing especially Shanghai.

Here, owing to the numbers of the foreign community involved, evacuation is, His Majesty's Government are advised, physically impossible and if attempted would involve loss of life, while the effect of evacuation on the position and rights of the treaty powers in China would be disastrous.

His Majesty's Government consider, therefore, that the duty to protect their nationals makes it necessary to hold that part of the international settlement at Shanghai within which British interests are concentrated, at all costs, and are taking the measures required to enable them to do so if need arises.

His Majesty's Government most cordially welcome the collaboration of the United States civil and military representatives at Peking and Shanghai to secure the force immediately necessary to police the settlement, but Hankow has shown that this alone is insufficient.

Having regard to the magnitude of Japanese interests at Shanghai, and to the proximity of Japan to China, His Majesty's Government have sought the co-operation of Japan in the formation of an international force sufficient for the purpose, or at least a definite assurance that Japan would act at once if need arose. Greatly to the regret of His Majesty's Government, the Imperial Japanese Government have replied that they do not consider that any such preparations are at present necessary or that the time has come even to discuss them. They decline even to give an assurance that in case of emergency they would be prepared to take the measures necessary to the defence of the settlement pending the arrival of contingents from other Powers which, owing to the distance, could not then be made available in time.

His Majesty's Government have, therefore, decided to send reinforcements to the East from India and Europe, and have issued the necessary orders.

In cooperation with the French they will hold Shanghai if possible. They intend in any case to protect their interests at Shanghai against an attempt to drive them out by mob violence or armed force, and in so doing, they invite and would warmly welcome any assistance which the United States Government is prepared to give.

It will be clearly understood in this connection that the military measures taken by His Majesty's Government are purely precautionary. They are dictated by their imperative duty to afford protection of life and by the distance from China of troops which may be needed for this purpose and which might otherwise prevent them from arriving in time to avert a catastrophe.

His Majesty's Government earnestly hope that a peaceful and friendly agreement may be reached which will render the use of force unnecessary. They are actively continuing conversations at Hankow and in Peking with this object on liberal lines as described in His Majesty's Ambassador's note No. 41 of the 19th instant,⁴⁶ and will do everything in their power to bring them to a successful issue. They are warned, however, by Mr. O'Malley,⁴⁷ who is now negotiating with the Cantonese Government at Hankow, that Bolshevik influences are so strong in the Nationalist Army and Government that the Cantonese, in the belief that the result obtained at Hankow can be secured elsewhere by similar means, are unlikely to be satisfied with anything short of complete and practically unconditional surrender first by Great Britain and then by all the other Powers of the whole treaty position.

In the event of the United States Government sharing the above mentioned apprehensions, and agreeing that such a surrender is impossible, His Majesty's Government will gladly inform them fully of the steps which they are taking as to co-ordination of their action with that of other Powers.

WASHINGTON, *January 26, 1927.*

S93.00/8150

Memorandum by the Secretary of State

[WASHINGTON,] *January 27, 1927.*

The British Ambassador ⁴⁸ called to see me today and presented me with a note on the Chinese situation, which is hereto attached.⁴⁹ He also read me a personal message from Chamberlain ⁵⁰ urging us to declare what position we would take if Shanghai was attacked by the Cantonese Army. I asked him if the Cantonese Army got there in the near future, if he thought the forces the foreign Powers have there would be sufficient to repel such an attack. He thought it would be.

I told him further that we had nationals scattered all over China; that in the far West, we were trying to get our nationals out of the

⁴⁶ *Post*, p. 344.

⁴⁷ Owen St. Clair O'Malley, Acting Counsellor of the British Embassy at Peking.

⁴⁸ Sir Esme Howard.

⁴⁹ *Supra*.

⁵⁰ Sir Austen Chamberlain, British Secretary of State for Foreign Affairs.

remote districts and to the treaty ports where we could afford them protection; that it was impossible for us to protect Americans in the interior; that we had not taken measures to evacuate Americans from the districts controlled by the Cantonese forces as we had been urged by Eugene Chen, the Foreign Minister of the Cantonese Government, not to do so and he assured us that they would be protected.

I asked him if there should be a general battle between the Cantonese forces and the allied Powers at Shanghai, if this would not stir up reprisals by mobs all over China. He, of course, was not able to answer that. He informed me, however, that they were carrying on negotiations at Hankow but, as expressed in his note, he did not seem very hopeful. However, they were going to continue the negotiations. In my own mind, however, the difficulty about the British negotiations is that there is a very hostile feeling to Great Britain and they are based on demands which I doubt very much if the Cantonese would be willing to grant. I told him that I was unable to answer him as to what the position of the United States would be at Canton in the event of such an attack; that our Naval Commander was instructed to do everything he could to protect American lives and property anywhere in China and especially in Shanghai in view of the danger to this large foreign settlement.

He repeated to me that they were perfectly willing to negotiate the giving up of the control of the foreign settlement but they did not propose to permit the Cantonese to take it by force or to march into it. He also said they were negotiating at Peking. I told him that I had understood that the Japanese had declined to join in any resistance to the Cantonese Army at Shanghai but simply to use such methods as they thought were necessary to protect their nationals. He said that was true and this is confirmed by the note which the British Ambassador gave me today.

893.00/8158a : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, January 28, 1927—3 p. m.

31. Unless you have comments to offer it is desired that you communicate the following message⁵¹ through the appropriate American Consular authorities to Chang Tso-lin, Chang Tsung-Ch'ang, Sun Chuan-fang⁵² and Eugene Chen.⁵³

⁵¹ For amendments to message, see telegram No. 35, Jan. 31, to the Minister in China, p. 65.

⁵² Military leaders of the Northern Army (Ankuochun), under the Peking Government.

⁵³ Minister for Foreign Affairs in the Nationalist Government at Hankow.

"The American Government is communicating the following identic message to (all names but that of the person addressed with appropriate titles) 'The fate of the American interests in the International Settlement during the course of the internecine warfare now unhappily in progress in China is the occasion of great anxiety to the American Government. As the result of the efforts of two generations of foreigners and Chinese this area has acquired a foremost position among the great ports of the world. There are now living in the Settlement nearly four thousand Americans and probably thirty thousand foreigners altogether, who have made this settlement their home. The arrangement for this settlement is of long standing and made with the local authorities of China and recognized by the national Government. Huge sums have been invested by Chinese citizens and the citizens of foreign nations in municipal and harbor improvements in buildings and in all the paraphernalia of international trade. The settlement is the vital center of commerce that ramifies throughout China and extends throughout the world. To a supreme degree the interests of the Chinese people and of the people of foreign nations requires that here order shall prevail. It is the port through which passes 40 per cent of the trade of China upon which millions of Chinese depend for their livelihood.

From the earliest days the interests of all nations in the International Settlement have prospered in times of peace and have suffered when there has been strife in the region surrounding Shanghai or in the country at large. In order at least to minimize as much as possible injury to the persons and property of foreigners and Chinese living at this port it has been the uniform policy of the foreign residents of the International Settlement and of their Governments to keep the settlement aloof from factional disturbances and as far as this could be accomplished rigorously to prevent it from being utilized by any faction. The cooperation of the authorities in control of Kiangsu Province in carrying out this policy has been asked and received and it has been remarkably successful.

The American Government in submitting these facts to some of the various parties powerful in China today is hopeful that their leaders will lend all possible support to the proposal now made that the International Settlement at Shanghai be excluded from the area of armed conflict and that the authorities in control of all the armed forces in China shall voluntarily undertake to abstain from all effort to enter the International Settlement by force and even to station military forces in its immediate vicinity.

Having solely in view the common good of foreign and Chinese citizens, the American Government invites all interested parties to maintain the neutrality of the foreign settlement in order that American and other foreign lives may have adequate protection. The American Government will be ready, for its part, to become a party to a friendly and orderly negotiation regarding the changes in the protection and changes in the administration of the International Settlement and the reconsideration of the whole subject of its control.'"

You may add to each of these identic communications an intimation that you will be pleased to transmit to your Government any

expression of intention made to keep the International Settlement immune from disturbances, military occupation or attack.

I intend to make this public here as soon as I am informed that you have acted. Please advise me at once.

KELLOGG

S93.00/8167 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, January 28, 1927—5 p. m.

32. For your confidential information the following message is being telegraphed by the Secretary of the Navy to the commander in chief at Shanghai.⁵⁴

Careful consideration has been given to your recommendation through the Navy,⁵⁵ and the following points have occurred to us:

(1) Only one country is reported to be landing a large force at Shanghai. Japan has declined to do so.

(2) If we sent to Shanghai a large force of the Regular Army it would mean arousing all of China and involve us probably in making war on Cantonese forces perhaps with opposing forces. It seems to us that while such action might succeed at Shanghai if the Cantonese do not have too large a force, it inevitably would inflame all China against the thousands of Americans not in Shanghai who probably cannot be evacuated or protected.

(3) Through our Minister at Peking we are immediately making efforts to communicate with the Cantonese, Chang Tso-lin, and the forces around Shanghai in an attempt to see whether it is possible to make an arrangement guaranteeing the neutrality of the International Settlement.

(4) I feel satisfied that for us at the present to send a large force of regular soldiers, outside of the Navy, would be very strongly condemned publicly here, in Congress and out, and would inflame China. The press reports here that a proposition has been made to our consul at Shanghai by Chiang Kai-shek that all parties refrain from sending their forces into Shanghai and thereby prevent those dangers which face the Americans and missionaries in the interior of China. Why was this not transmitted to Washington?

(5) In my opinion our answer to British note and to Admiral Williams ought to be that he has instructions to give Americans protection with his naval forces.

KELLOGG

⁵⁴ The message was, in the original, a verbatim copy of a memorandum by President Coolidge and was considered at a Cabinet meeting.

⁵⁵ See telegram No. 36, Jan. 16, from the Minister in China, p. 50.

S93.00/8163

The British Ambassador (Howard) to the Secretary of State

No. 61

WASHINGTON, 28 January, 1927.

MY DEAR MR. SECRETARY: With reference to our telephone conversation this morning, I saw Mr. Sze at eleven o'clock this morning.

He repeated to me substantially what you told me he said to you yesterday about his fears regarding the probable result of sending foreign troops to Shanghai, and he said that he was at our disposal to send any messages to Mr. Chen or Mr. Koo at any time, if we desired him to do so. I thanked him and said that I understood that he had suggested that the British Government should abandon sending any troops to Shanghai in return for a guarantee of security for the foreign settlement there, which would continue as heretofore, pending the revision of existing treaties and arrangements.

Mr. Sze said that, in his opinion, not only must the despatch of troops be abandoned, but that troops actually there must be withdrawn, and that China must have the promise that the Powers would agree to the abolition of special rights and treaties within the concession. In that case, he felt sure that the leaders would be able to give satisfactory guarantees against violence or bloodshed.

I told him that His Majesty's Government and, I believed, all the other Powers interested, were anxious to satisfy Chinese national aspirations so as to settle all the questions at issue finally, and put an end to the most unfortunate anti-foreign feeling now rampant in China, but that His Majesty's Government felt very strongly about not giving way to force. Rights and privileges established by treaty could only be legally abolished by common agreement between the parties and that it would be a most lamentable precedent if nations felt that they could, by threats of bloodshed and violence, oblige others to abandon their treaty rights.

I said that I would, however, telegraph to the Foreign Office his kind proposal to send any messages that we might wish but that as he knew, Mr. O'Malley was actually discussing these matters with Mr. Chen.

Mr. Sze asked if I knew what point the negotiations had reached. I told him that I did not, but that I imagined they had been successful up to a point, inasmuch as I knew that business establishments and banks had been reopened at Hankow as the result of assurances given by Mr. Chen that they would be protected.

I am telegraphing this afternoon to Sir Austen Chamberlain to ask him to let me know, for your information, what he feels about your programme of getting into touch with the different Chinese leaders for the purpose of obtaining assurances, not only as regards Shanghai, but also for the lives of foreigners in the interior and,

unless I misunderstood you, also with the ultimate object of perhaps persuading them to join in a sort of Round Table Conference on Treaty revision and the other matters at issue between China and the interested Powers. I will not fail to let you know as soon as I get his reply.

Yours very truly,

ESME HOWARD

893.00/8163

Memorandum by the Secretary of State

[WASHINGTON,] *January 29, 1927.*

The British Ambassador called to see me today and, referring to his letter of January 28th hereto attached,⁵⁶ I informed him as to the second paragraph on page 2 that the Chinese Minister had not stated to me as a condition of neutrality of the Foreign Settlement the Powers must agree to the abolition of special rights and treaties within the concession. I do not know what concession is referred to but he had spoken to me and had said that the military authorities ought to be withdrawn.

I also told him that I had telegraphed to Mr. MacMurray the suggestion that we approach the various military commanders with a view to getting them to agree to leave the area of the Settlement outside of the area of military operations and that I had also suggested for ourselves that, after this matter had been disposed of, we would be willing to take up as one of the parties negotiations for a change in the status of the Settlement. The Ambassador said that was not objectionable.

893.00/8157: Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, *January 29, 1927—noon.*

[Received January 29—9:30 a. m.]

93. Department's telegram 26, January 25. I am informed by British Minister that except as in the Hankow conversations neutralization of the International Settlement is not a subject of discussion. British are stipulating Shanghai must be left *in statu quo*. In this connection see last paragraph of British memorandum which you quoted in your 17, January 20.⁵⁷ But even if Ch'en should give

⁵⁶ *Supra*.

⁵⁷ See note No. 41, Jan. 19, from the British Ambassador, and footnote 76, p. 344.

assurances to that effect I consider that it would be wholly illusory for us to rely upon them in connection with planning protection of the lives and property of Americans at Shanghai (see Hankow's telegram January 20, repeated in Legation's 61 to Department, January 22, last three sentences).⁵⁸

MACMURRAY

S93.00/8164 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 30, 1927—noon.

[Received January 30—11 a. m.]

96. For the Secretary, Under Secretary and Chief of Far Eastern Affairs. Your telegram number 31, January 28, 3 p. m.

1. With all possible earnestness I beg you to reconsider the proposed message to factional leaders with regard to the neutralization of Shanghai. I am certain that such proposals would not accomplish their purpose and that any assurances given in reply would be merely illusory as stated in my 93, January 29, noon; and that the effect of such an appeal to the Chinese would be to encourage in them an aggressive mood which would measurably increase the danger to the lives and property of our citizens in Shanghai and elsewhere.

2. The proposed message appeals to the Chinese to do three things: First, to exclude the International Settlement from the area of conflict; second, to abstain from entering it by force; and third, to station no military force in its immediate vicinity. The first and second are matters of right and to present them to the Chinese as though they were new proposals prompted merely by motives of expediency primarily in the interest of foreigners, would constitute a veritable challenge to the Nationalists to assert a right to do what we are supplicating them not to do. The third point could not be urged without either insisting on the evacuation of the Shanghai area by the Northerners now in control or demanding that the Southerners take no military actions against them—either of which alternatives would be an intervention in Chinese factional strife which would hopelessly compromise our position.

3. As regards the foreign attitude in the matter, the proposal invites all interested parties to maintain the neutrality of [the] Settlement. This implies that they are not doing so or will not do so and thereby puts us foreigners in the wrong without any justification in fact. It further declares a willingness on our part to negotiate, it does not appear with whom, regarding first, protection; second, administration of the Settlement; and third, control. I am at a loss to understand what changes we could offer in regard to the necessities

⁵⁸ *Post*, p. 249.

of the protection of our nationals in Shanghai. As to the second and third points, I feel strongly that for the United States to make an offer of fundamental changes in the status of the International Settlement without previous consultation and understanding with the other nationalists [*nations?*] jointly responsible with us would be not only an act of bad faith towards them but an incitement to the Cantonese faction to force the issue.

4. I firmly believe that the making of the proposed communication would not only aggravate the danger to our nationals but would gravely impede and embarrass such other nationalities as might have to assume the burden of protecting the lives and interests of our people along with their own.

5. I, therefore, most respectfully urge that no further action be taken on the proposed communications.

MACMURRAY

893.00/8164 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, January 31, 1927—1 p. m.

35. Your number 96, January 30, noon.

1. It is necessary for you to understand that American sentiment is very strongly opposed to military action in China by this Government except for protecting American life and property. No sentiment exists here that would support any military action on the part of this Government for the object of maintaining present status and integrity of the International Settlement at Shanghai.

2. This Government does not intend to withdraw from Chinese waters its naval forces as long as their presence is required for the protection of American life. If the landing of forces becomes necessary for the protection of American citizens in the International Settlement at Shanghai from attack by armed Chinese soldiers or by mobs, there would be general approval of such action in this matter if it can be demonstrated that every effort to protect American citizens by peaceful measures had been exhausted by this Government beforehand.

3. It is well known here that this very thing is being done by the British Government in the negotiations now being conducted at Hankow in which it is understood considerable concessions by the British Government are involved in the matter of administration of the residential concessions held by the British in China. As one of the powers responsible for the status possessed by the International Settlement at Shanghai, the United States cannot afford to be less

ready in the matter of making concessions where responsibility for making them rests upon it.

4. In Cabinet discussion of this it was agreed that such an effort should be made as was outlined by the Department in its telegram 31, January 28, 3 p. m. I discussed this with the British Ambassador in Washington. He approved, saying his Majesty's Government already was holding discussions at Hankow on the question of keeping the International Settlement at Shanghai clear of the conflict. I was also told by the Japanese Ambassador that the proposal in his opinion was a good one.

5. Careful consideration has been given to the comments which you have made at the Department's invitation. In a desire to meet them, amendments to the proposed communication have been made as follows:

(a) In the address, substitute "Chiang Kai-Shek through Eugene Chen" for "Eugene Ch'en."

(b) Instead of the passage beginning with the words "The American Government in submitting" and concluding with "its control", write: "In recalling these facts to the Chinese military commanders, the American Government is confident that they will lend their sincere support to the proposal now made—that the International Settlement at Shanghai be excluded from the area of armed conflict so that American citizens and other foreigners may receive adequate protection. The American Government will be ready for its part to become a party to friendly and orderly negotiations properly instituted and conducted regarding the future status of the Settlement."⁵⁹

If, after you have considered the above, you have further comments please communicate them by telegraph immediately.

KELLOGG

593.00/8168

Memorandum by the Secretary of State

[WASHINGTON,] January 31, 1927.

The British Ambassador called at my request this morning and I told him in a very general way that we had now at Shanghai about eight hundred men who could be landed; that in addition to that we had naval forces at Guam which were on their way to Manila and that with all these forces in the Asiatic Fleet, the Navy could land about three hundred more at Shanghai. In addition to that, I told him we had three cruisers on the way to Honolulu and they would arrive there on the thirteenth and they could land about one hundred and fifty or sixty men from each one of the cruisers; that we were

⁵⁹ Quotation not paraphrased.

preparing about twelve hundred marines to be shipped from San Diego and they would be ready to go about the third; that I had not answered his note⁶⁰ because I was getting information. In a general way, I told him we did not feel that it was wise to send an army to Shanghai outside of the Navy as it would inflame the Chinese and was liable to endanger Americans scattered throughout China whom we could not protect by our naval forces.

I then read him the last clause of our telegram of today, No. 35, January 31, and he heartily endorsed it. He said he thought we ought to deliver it at once to the Commanders and that the British Government, he was sure, would ask their Minister to urge MacMurray to do so. In a general way, he said he understood the British Government was carrying on negotiations along the line of their proposition, British memorandum No. 41,⁶¹ which Mr. Chamberlain seemed to have enlarged on somewhat, but he had no information as to what the results of the negotiations were.

893.00/8164 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, January 31, 1927—7 p. m.

37. Department's 35, January 31, 1 p. m. Further referring to Department's proposal in telegram 31, January 28, 3 p. m., today I discussed the matter with the British Ambassador who thought the proposal excellent and believed the British Government would give its Minister instructions to endorse the matter with you. I discussed the matter also today with the Japanese Ambassador, who informed me that a similar plan was being considered by his Government which has instructed its diplomatic and consular officers in China to make reports concerning its feasibility.

KELLOGG

893.00/8175 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, February 1, 1927—10 p. m.

[Received February 1—1:15 p. m.]

105. Your 35, January 31, 1 p. m.

1. My opinion is that actually the message should be addressed to Chiang Kai-shek and Chang Tso-lin only. Its terms are directed

⁶⁰ Apparently note No. 56, Jan. 26, p. 56.

⁶¹ *Post*, p. 344.

to the military commanders and therefore should be communicated only in copies to the respective civil authorities for their information. Chang Tso-lin's jealousy of the prerogatives he has as commander in chief of the Ankuochun is so sensitive that he would almost surely be offended if the message is addressed to Sun Ch'uan-fang and Chang Tsung-ch'ang, his subordinates. However, I suggest that authority be given me to have Sun informed orally by consul general at Shanghai when messages are actually sent.

2. Chang Tso-lin is in Peking now, so that it would be appropriate to have the Legation address him directly instead of sending the message through a consular officer as suggested in Department's 35 [31], January 28, 3 p. m. That the message should also be addressed to Chiang Kai-shek by the Legation would follow therefore.

3. Contemplating possible difficulties in the message reaching Chiang Kai-shek, I suggest you publish it only when I have informed you that actual delivery of the message to him has been made.

MACMURRAY

893.00/8175 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, February 1, 1927—5 p. m.

41. Your telegram [105], February 1, 10 p. m. Procedure outlined in paragraphs 1 and 2 is approved. I shall withhold publication here until you advise me that message has been delivered. For publication Department will use text as amended in its telegram 35, January 31, 1 p. m.

KELLOGG

893.00/8193 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 5, 1927—5 p. m.

[Received February 5—11:50 a. m.]

113. Your 41, February 3 [1], 5 p. m.

1. Following telegram has been sent to American consul, Hankow:

"(1) Please deliver following on my behalf to the military representative at Hankow of Marshal Chiang Kai-shek requesting him to forward it at once to Chiang to whom it should be explained that I am adopting this method of communicating with him since I am unable to do so directly as I do not know his present whereabouts: (message here quoted is text as given in Department's 31, January 28, 3 p. m., as amended by Department's 35, January 31, 1 p. m. with the

following heading: 'By direction of the Secretary of State of the United States the American Minister has the honor to make the following communication').

(2) Please tell Chiang's representative that an identic message is being transmitted simultaneously to Marshal Chang Tso-lin.

(3) After conveying my communication to Chiang's representative please give a copy to Eugene Ch'en 'for his information'."

2. Following telegram has been sent to American consul general at Shanghai:

"February 4, 7 p. m.

(1) I am transmitting following identic communication simultaneously to the respective commander[s] in chief of the Ankuochun and of Kuomintang forces with copies to Wellington Koo and Eugene Ch'en 'for their information' (same as above).

(2) Please endeavor to convey copy personally to Sun Ch'uan-fang with expression of my earnest hope that we may count on his complete cooperation, without which, effort we are making cannot succeed.

(3) I have been in a certain quandary concerning notification to Sun Ch'uan-fang. On the one hand if I addressed him equally with Chang Tso-lin and Chiang Kai-shek I would most probably offend the former, while if I ignored Sun there is probability of his taking offense. I have chosen to address directly only the two commanders in chief. I have just delivered the message personally to the Marshal this afternoon with the statement that it was desired to take the matter up with Sun in reference to the local situation at Shanghai. You may communicate so much of this to Sun Ch'uan-fang as you deem expedient from the point of view of obtaining his best cooperation in the effort the Department is making to secure the nationalization [*neutralization?*] of the Settlement.

(4) Please inform commander in chief."

3. In view of the impossibility of direct communication with Chiang Kai-shek, I assume it necessary to fix a date for publication. Am giving message [to] press Monday morning, February 7th. Respectfully request Department to release same for publication simultaneously.

4. I have transmitted copy of message to British, Japanese, French and Italian representatives and to Senior Minister with the request that the matter be considered strictly confidential until Monday morning.

5. A copy has been sent to Wellington Koo⁶² for his confidential information.

6. I delivered the identic message to Marshal Chang Tso-lin personally yesterday evening. He expressed himself to the effect that he was much concerned for the safety of the Foreign Settlement at Shanghai, protection of which he intended to assume [*assure?*] to his utmost; and that the Department's proposal naturally met with his

⁶² Prime Minister and Minister for Foreign Affairs in the Peking Government.

approval since his object was to avoid military operations in the Shanghai area, it being the Southerners who were attacking him in peaceful possession. Repeated to Tokyo.

MACMURRAY

S93.00/S204 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 7, 1927—3 p. m.

[Received February 7—6:09 a. m.]

117. 1. The British Minister has informed me that his Government has telegraphed him that the American Government had expressed some anxiety that the despatch of British forces to Shanghai might endanger American lives elsewhere that [*than*] in Shanghai and that he was instructed to ascertain my views.

2. I informed him that in the despatch of considerable British forces which I understood to be intended solely for purposes of defense in the event of threatened violence at Shanghai I did not for my part perceive any danger to the lives of Americans in the interior beyond such degree of danger as might in the ordinary course be involved in giving armed protection to any foreign nationals in China.

MACMURRAY

S93.00/S206 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 7, 1927—5 p. m.

[Received February 7—10:55 a. m.]

119. My 113, February 5, 5 p. m. Following from American consul general, Hankow:

"February 6, 2 p. m. Your February 4, 4 p. m. Memorandum with requested explanation delivered this morning at 11 o'clock to Chief of Staff of General Chiang's headquarters who stated that message would be immediately telegraphed to General Chiang who is at Nanchang. Chief of Staff while professing sympathetic interest did not show much responsiveness, his assurances being given rather halfheartedly.

Memorandum was presented to Eugene Ch'en at 1 o'clock this afternoon at his residence. After carefully reading it, he expressed the very greatest disappointment and even dismay that a document of such great importance from another government should have been presented to the military authorities rather than through the usual diplomatic channels, remarking that if he had a similar communication to make at Washington he would not hand it to the Major

General of the United States Army or the Chief of Staff. He denounced the procedure as irregular in the extreme and stated that it would seem to imply a dictatorship which he wished to deny as emphatically as he possibly could. He said he was amazed that the United States should suggest neutralization of Chinese Republic and that confidentially 'even the British would not suggest that'. He said that he wished again to emphasize that this is a centralized, well-organized national government, not a provincial government or a dictatorship and that he wished the American Government would realize it. He also said that it would have been far better had I been authorized to sound him in advance before presenting such an important proposal. At least twice during the conversation he remarked: 'This is sure to bring on a serious row'. I would not have been surprised had he handed the memorandum back to me and declined to receive it. It will probably be brought before the Executive Council tomorrow.

In the course of the conversation I assured Ch'en that the proposal was a sincere effort on the part of the American Government to avoid serious trouble at Shanghai and that similar proposals have been made before. I expressed the view that nothing in the memorandum or connected with its transmission implied a dictatorship and assured him that the American Government entertained no such idea. I expressed the hope *inter alia* that he would minimize rather than magnify the point raised by him concerning the transmission of the document; that after all it was probably deemed a practical way of handling the matter in the absence of any act of recognition of the Nationalist Government of [by] the American Government; and that I hoped the proposal would have his support. Ch'en will probably give it no support however.

Ch'en said that he is not yet ready to comment on the Department's recent declaration on Sino-American relations."⁶³

MACMURRAY

893.00/8207 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 8, 1927—1 p. m.

[Received February 8—6:44 a. m.]

121. My 119, February 7, 5 p. m. Following from American consul general at Hankow:

"February 7, 11 a. m. My February 6, 2 p. m. General Chu, Chief of Staff, informs me this morning that he has referred memorandum to Minister for Foreign Affairs, which procedure was no doubt promptly arranged by Ch'en after I saw him yesterday."

MACMURRAY

⁶³ See telegram No. 28, Jan. 25, to the Chargé in China, p. 350.

893.00/8232 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 11, 1927—noon.

[Received February 11—6:20 a. m.]

131. My 121, February 8, 1 p. m. Following from American consul, Hankow:

"February 9, 6 p. m. My February 6, 2 p. m. In the course of conversation with Eugene Ch'en today concerning threatened seedling [*sic*] strike and other matters, I inquired what action, if any, he had taken on memorandum presented Sunday. He replied that no definite action had yet been taken, but that he was certain Nationalist Government would not approve proposal. He again complained bitterly of the presentation of the proposals to the military authorities and said that whereas the American Government has only been guilty of 'financial intervention heretofore, she is now guilty of military intervention' because to neutralize Shanghai would mean the release of Sun's troops in that vicinity for use against Nationalist troops elsewhere; in other words, as he put it, the foreigners will hold Shanghai, the very heart of financial China and a strategic point of vast importance, for the benefit of Sun Ch'uan-fang, while Nationalist forces are engaging his troops in territory this side of Shanghai. He says that he actually fears that the proposal, having now been widely published, may cause anti-American reactions. While conceding sincerity of purpose, he said that the American Government persists in disregarding the fact that the Nationalist Government is something real and that once more he wished to explain that it is an irresistible force which must be reckoned with as the most dominant political factor in China today. On the subject of dealing directly with the military he said that the United States is crucifying the Nationalist Government on a cross of technicalities. Memorandum covering conversation will be mailed you."

MACMURRAY

893.00/8232 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, February 11, 1927—4 p. m.

56. Your 131, February 11, Noon. You may instruct American Consul at Hankow in following sense:

With reference to conversation with Eugene Chen reported in your February 9, 6 p. m., you should take occasion orally to inform Chen that memorandum contained no proposal for the neutralization of Shanghai; that it definitely limited itself to a proposal that the area of "the International Settlement at Shanghai be excluded from the area of armed conflict". This proposal in no way involves the release of any troops in that vicinity for use anywhere else nor does it involve in any way any discussion as to what troops may occupy

or hold the area outside of the boundary of the International Settlement. The proposal is self-explanatory and should not be subjected to misinterpretation of this kind.

KELLOGG

893.00/8250 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 15, 1927—2 p. m.

[Received February 15—6:12 a. m.]

143. Department's 56, February 11, 4 p. m. Following from American consul general at Hankow:

"February 14, 6 p. m. Substance of your February 12, 3 p. m. communicated orally to Eugene Ch'en this afternoon. He said that he quite understood proposal was limited to International Settlement at Shanghai, but in effect it meant the neutralization of the whole port. He said that in several public announcements he had stated that the Nationalists did not contemplate any military operations against the International Settlement. He reiterated the statement, but said that the Chinese territory immediately surrounding Settlement would probably be involved in warfare between Northern and the Southern forces. It was from this area that he feared that Sun's ⁶⁴ troops might be withdrawn for use against the Nationalist troops advancing in the direction of Shanghai.

Ch'en stated that he has now decided to make no public statement or reply to the memorandum, as he did not wish to irritate what he described as an unpleasant situation."

MACMURRAY

893.00/8234

The Secretary of State to Representative Stephen G. Porter

WASHINGTON, February 15, 1927.

SIR: I have the honor to acknowledge the receipt of your letter of February 9 ⁶⁵ transmitting a copy of House Resolution No. 408 ⁶⁶ calling for information as to the existence of any secret understandings between officials of this Government and officials of other Powers as to the joint use of military and naval forces in China in the event of the violation of certain treaties. In reply I have the honor to inform you that there are no secret understandings between officials of this Government and officials of other Powers as to the joint use of military and naval forces in China in the event of the violation of any treaty between the United States and China or between China and any of the Powers.

I have [etc.]

FRANK B. KELLOGG

⁶⁴ Sun Ch'uan-fang.

⁶⁵ Not printed.

⁶⁶ Feb. 4, 1927, 69th Cong., 2d sess.

S93.00/S296 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 19, 1927—noon.

[Received February 20—11:30 a. m.]

153. Reuter[s] publishes following under Shanghai February 16 date line:

"Marshal Sun Ch'uan-fang has issued a statement concerning the American proposal for the neutralization of Shanghai. He says that 'the proposal was undoubtedly prompted by a sincere desire to help China and to avoid further outrages by the revolutionists, but unfortunately President Coolidge has not been advised as to the conditions here in Shanghai as Chinese territory for the peace [and] order of which I am fully responsible [omission?] full cooperation of Marshal Chang Tso lin.' The statement then goes on to say 'the strength of my reorganized armies is not only sufficient to maintain peace and order at Shanghai but also forms the basis of my plans for the restoration of China. Have the full cooperation of Marshal Chang Tso-lin who is advancing to attack the Cantonese. In the end my forces shall triumph over the revolutionists, but for a concrete guarantee of the safety of Shanghai I point to the military situation. Briefly the nearest position of the Kuomintang is 300 miles from Shanghai [omission?] power and responsibility, the Government of Kiangsu resents the discussion of any plans with regard to Shanghai with any revolutionist [omission?] has assumed and maintain our power and responsibility and until we have fallen no foreign power is justified in promising diplomatic proposals upon such failure. Furthermore in pursuit of our purpose to maintain order we must have freedom of action and can only regard the efforts of any foreign power to place limitation upon us as an act of intervention favorable [to] our and their enemy. The Cantonese party condemned the facts of the situation as aiming [omission?] political party which never controlled more than one city of the South became associated with the Bolsheviks who are seeking a world revolution so that they can experiment with their social and economic ideas which have failed in their own country but which they are now imposing on China. We will resist the importation of these exotic ideas. We resent Russian intervention in China and we will resist that intervention. There is plenty of Chinese manhood to force the undesirable Russians to return to their own country. Here they have destroyed property in five provinces, poisoned the minds of our youth, abused our sense of religion, stopped our trade, debased our currency and now involved us in the possibility of war with foreign powers. We must fight them as we fight the plague, fighting to win. The Chinese is opposed to nationalism. We oppose communism and the imposition upon us of the ideas and methods of the Third International. Therefore, we are fighting to win back foot by foot the territory the Russians have gained through the revolutionary army now having its center at Hankow. We shall succeed. Let no one interfere who seeks the welfare of China.'"

MACMURRAY

893.00/8289 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 19, 1927—1 p. m.

[Received February 19—6:44 a. m.]

154. My 153, February 19, noon.

1. Following from American consul, Nanking:

"February 18, 1 p. m. I am protesting to Sun regarding publication in Shanghai press of his pronouncement concerning neutralization proposal without making official reply through this consulate."

2. I delayed repeating Sun Ch'uan-fang's statement while awaiting advices from Davis.

MACMURRAY

893.00/8300 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 22, 1927—11 a. m.

[Received 12:30 p. m.]

164. For the Secretary, Under Secretary and the Chief of the Division of Far Eastern Affairs. My 627, December 19, 10 a. m., paragraph 4;⁶⁷ Department's 307, December 23, 11 a. m.;⁶⁸ my 32, January 15, 2 p. m.; Department's 32, January 28, 5 p. m.; Department's 35, January 31, 1 p. m., first paragraph.

[Paraphrase]

In radiogram 0004-2300 sent to Chief of Naval Operations, Admiral Williams, commander in chief, United States Asiatic Fleet, submitted report that he had stated at conference of British, French, Japanese, Italian, and American naval commanders at Shanghai that his instructions were to protect Americans but he was not ordered to assist in protecting integrity of the Settlement against Nationalist Army, and said that, in carrying out his mission, he would cooperate and give protection to all foreigners up to such time when the Cantonese should demand to take control of the city. He stated further in a later section of same radiogram that if the Cantonese should demand surrender of the Settlement, or should attack without a demand for its surrender, while our landing party was ashore, the withdrawal of our men would be necessary and that the only effective protection we would provide Americans would be the evacuation of them.

⁶⁷ *Foreign Relations*, 1926, vol. I, p. 662.

⁶⁸ *Ibid.*, p. 663.

2. There can be, from the standpoint of practical necessity, I venture to repeat, no distinction between defending lives and property of residents and defending the Settlement. In case need arises, the defending forces must defend what they are able to without regard to any question of a boundary. To distinguish between concerted attack made by organized forces and violence from a mob would also prove impossible. In their recent campaigns the Nationalists' characteristic tactics have been to infiltrate their men into hostile territory to assemble there later as an organized armed force. In the midst of dealing with mob violence it is altogether likely that foreign forces would suddenly find themselves confronted within the Settlement with such Nationalist units. Therefore the scope of defensive measures to be taken to safeguard American and other foreign lives and property should be left to discretion of those having military command.

3. Moreover, my feeling is that a question of our good faith or our honor is involved. If the other powers should come into conflict with organized Chinese forces while protecting foreigners in Shanghai, I believe we in honor could not withdraw under fire, as it appears the instructions to the commander in chief require, leaving the other foreign powers to meet the emergency without support from us and relinquishing to them responsibility for protection of American lives while they defend their own nationals.

4. I understand fully and I concur in paragraph 1, Department's number 35, January 31. The views I have reiterated in this telegram are, I submit, entirely consonant therewith. And I am the more hopeful, considering the implications of both the second and the first paragraphs of that telegram, that the Department will see fit to have authorization given to the commander in chief to exercise full discretion in regard to employing his forces at Shanghai in conjunction with other foreign forces similarly engaged to protect American lives and property from attack, whether by organized Chinese forces or by mob. In the circumstances of the strike situation at Shanghai and Sun Ch'uan's defeat I beg the Department most respectfully and urgently to take action immediately in this matter.

MACMURRAY

893.00/8302 : Telegram

The Consul General at Shanghai (Gauss) to the Secretary of State

SHANGHAI, February 23, 1927—4 p. m.

[Received February 23—9:25 a. m.]

Sun Ch'uan-fang seems to be practically eliminated by political combination against him. His forces concentrated at Sungkiang where they will defend in cooperation with Shantung forces now

moving toward Shanghai. Southerners have not exerted great military pressure and are now merely following up. Foregoing circumstances, together with rumored agreement between Fengtien and Cantonese for division of Shanghai revenue, may indefinitely delay presence of Cantonese before Shanghai. Local Chinese authorities continue severe measures and have situation well in hand. Yesterday evening Chinese gunboat fired on arsenal and a number of shells overreached into French Concession. Believed to be sporadic attempt of Cantonese subordinates to create disturbances. Responsibility for opening fire disclaimed by both naval and arsenal authorities.

Eugene Ch'en's daughter and Mrs. Borodin in Shanghai at British hotel. Borodin reported to be in Nanchang. Rumors current Hankow becoming uncomfortable for Cantonese leaders.

Strike situation improved, public utilities and postal service partially restored.

Military attaché of the Legation ⁶⁹ is here collaborating in military information for my telegrams. Please inform War Department.

GAUSS

893.00/8310 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 24, 1927—7 p. m.

[Received February 24—1:05 p. m.]

178. 1. At diplomatic body meeting this afternoon the following announcement regarding International Settlement of Shanghai was decided upon at the instance of French Minister ⁷⁰ who is to make similar announcement in respect to the French Concession:

"In the light of the military events which are at present taking place in the region of Shanghai and which may at any moment have serious consequences for the safety of the life and property of their respective nationals, as was apparent from the bombardment the 22nd of this month, the interested diplomatic representatives feel compelled to recall that the International Settlement of Shanghai, like the other concessions in China, was established in virtue of regular agreements with the Chinese Government in order to make it possible for foreigners to reside there freely and to carry on their trade.

In the course of the party strife of which that region has been the scene, the authorities of the International Settlement have scrupulously abstained from favoring any of the conflicting parties involved; and in spite of the difficulties of the situation they are maintaining in that respect the strict neutrality imposed upon them by the nature of the state of affairs thus established.

⁶⁹ Maj. John Magruder.

⁷⁰ Damien de Martel.

The interested diplomatic representatives are thus warranted in expecting on the part of the Chinese authorities the observance of the same rule of conduct and they look to the heads of the armies involved to take all measures necessary to avoid incidents which would constrain the foreign authorities themselves to take the measures indispensable for insuring the safety of the persons and property of their nationals."

2. I felt warranted in falling in with this proposal along with the other interested Ministers in view of the Department's instructions concerning the protection of American life and property in the International Settlement.

3. This announcement has been telegraphed by the Senior Minister to the consular body at Shanghai. It will be released tomorrow morning for publication at Shanghai and Peking.

MACMURRAY

893.00/8300 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, February 25, 1927—2 p. m.

72. Your telegram 164 of February 22, 11 a. m. It is the understanding of the State Department that the standing instructions issued to the commander in chief of the American naval forces in Chinese waters require him to utilize the forces at his disposal for the taking of all possible steps for the protection of American life and property. The Admiral is aware that it is the earnest desire of this Government to avoid as far as possible any contingency whereby, through the use of its military forces, it may become involved in the political question of the status of the International Settlement. In making his plans he is guided by this knowledge. It was not the intention of the Department of State, nor does the Department believe that it is the intention of the commander in chief, that the withdrawal of American naval forces from Shanghai or the evacuation of American citizens from Shanghai, should take place except as a possible last resort at such time as, in the judgment of the Admiral, military necessity dictates such action. The following telegram has been sent to the commander in chief of the American naval forces:

"Reference to your 0022-2230. You are hereby authorized, at your discretion, to utilize in the protection of the lives and property of American citizens all forces under your command."

GREW

S93.00/S313 : Telegram

The Consul General at Shanghai (Gauss) to the Secretary of State

SHANGHAI, February 25, 1927—7 p. m.

[Received February 25—10:10 a. m.]

On request of Municipal Council to senior consul this morning for military assistance of neutral countries in defending Shanghai Settlement on account of presence large Chinese forces this area, the British have taken up a defense line along the railway outside western boundary of Settlement. Japanese do not consider landing yet necessary and that to establish defense line now would give unnecessary offense to Shantung *Tupan* whose troops commenced to arrive last night. British may extend their line around sector outside Settlement to north which would otherwise be occupied by the Japanese; this for the purpose protecting British life and property. American landing force would not occupy defense lines but would suppress disorders inside Settlement. Inasmuch as no state of emergency has been declared and volunteers have [not] been called out, the general strike being over, and no disorders exist or are anticipated inside Settlement, I have not requested landing of American forces.

GAUSS

S93.00/8329 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 28, 1927—4 p. m.

[Received March 1—9:55 a. m.]

188. Following from American consul general, Hankow:

"February 27, 1 p. m. One of the three Standard Oil Company vessels, the *Meihung*, recently commandeered at Ichang over a week ago, arrived in the upper harbor of Hankow this morning loaded with armed soldiers. United States Ship *Pigeon* went alongside, took the vessel in tow and anchored near United States Ship *Isabel*, removed the soldiers numbering more than one hundred, retained most of the rifles and ammunition and informed officer in charge that rifles and ammunition would be turned over on request from Minister of Foreign Affairs or commanding general of this area against a receipt. I have so informed Chen.

Arms and ammunition consists of the general [*sic*] American merchant vessel: 579 rifles, 9 cases small arms ammunition, 9 rounds 3-inch field piece ammunition, 2 baskets leather belts and miscellaneous gear, 3 sabres, 1 lathe and miscellaneous gear. Troops were from 30th company, Ten[th] Army. Other two vessels were released several days ago. Protest against the seizure was lodged by me with Nationalist authorities 4 or 5 days ago."

MACMURRAY

S93.00/8565

*The Consul General at Shanghai (Gauss) to the Minister in China
(MacMurray)*⁷²

No. 5101

SHANGHAI, March 1, 1927.

SIR: I have the honor to report that early on the morning of February 25th the Chairman of the Shanghai Municipal Council telephoned to the Senior Consul requesting on behalf of the Council that the Foreign Powers extend military assistance in the defense of the Settlement and adjoining residential areas on account of the presence of large numbers of Chinese troops in this vicinity. He stated that he would follow his verbal request by a written communication, a copy of which reached me from the Senior Consul on February 26th. I enclose a copy.⁷³

Upon receipt of the telephonic request from the Chairman of the Municipal Council, the Senior Consul notified the American, British, Dutch, Italian and Japanese Consuls-General, being the Naval Power Consuls at the port.

As the Senior Consul was unable to give me any detailed information as to the reasons for the request, I reached the Chairman of the Council by telephone and requested from him such information. He stated that with the arrival of Chang Tsung-chang's Shantung troops at Shanghai and the presence here of large numbers of the troops of Sun Chuan-fang, the Council desired to have the boundaries defended.

He stated that no "state of emergency" had been declared, admitted that there was no disorder or threat of disorder inside the Settlement, and, in reply to my inquiry, stated that the Shanghai Volunteer Corps had not been called out, although it had been kept in a state of precautionary mobilization which required men to be available in uniform on short notice. The Chairman of the Council (Mr. Stirling Fessenden, an American citizen) told me that he was not interested in whether the Americans landed or not, since the British were apparently the only force who were prepared to defend the integrity of the Settlement.

The Japanese Consul General got into touch with me by telephone and told me that he was disinclined to land the Japanese forces, but proposed to consult the Japanese Admiral; he considered that it was unwise to establish the defense lines just when the Shantung *Tupan's* troops began to arrive; the Shantung *Tupan*, he said, had always been disposed to protect foreign life and property, and there

⁷² Copy transmitted to the Department by the consul general as an enclosure to his despatch No. 4590, Mar. 1; received Apr. 4.

⁷³ Not printed.

was no indication that there was any friction or probability of friction between the troops of the Shantung *Tupan* and those of Sun Chuan-fang. He considered that a landing at the moment would be an unnecessary affront to Chang Tsung-chang. I later learned from the Japanese Consul General that he was not disposed to request his naval authorities to land men to take up the Japanese position on the defense line; at least not for the present.

While it is, I believe, the usual custom in a situation such as the present for the consular representatives of the Naval Powers to confer and submit a joint request to their naval representatives, it soon became evident that no such course would be followed in the present instance, the British military forces having moved out to the British sector of the defense lines immediately the request was made by the Chairman of the Shanghai Municipal Council to the Senior Consul.

I am satisfied that the request of the Shanghai Municipal Council was made at the instance of the British authorities in order to afford some ground upon which the British forces might justify their occupation of the defense lines.

The British military forces are now occupying a defense line which runs along the western boundary of the foreign residential area outside the Settlement (along the branch line of railway connecting the Shanghai-Nanking and Shanghai-Hangchow lines), thence along the Soochow Creek, and the Settlement boundaries. Patrols and pickets with machine guns are on duty along this line. Barbed wire entanglements are being erected along the line, principally, if not entirely, along and on Municipal-owned roads.

The British Consul General approached the Japanese Consul General with reference to the Japanese intention concerning occupation of their sector of the defense line—being the triangular section outside the Settlement limits to the north, between the railway line which runs to Woosung and the Sawgin Creek—and upon learning that the Japanese did not at present intend to take up their line he inquired whether there would be any objection to the British stationing a force in that area “to protect British life and property.” Naturally, the Japanese Consul General could make no objection to this being done, and a small British force now occupies Hongkew Park, in what should be the Japanese sector of the defense line.

The Italians landed a small force—the Italian Consul General says one hundred fifty men, but that large a number has not yet been identified—and are occupying a small section of the defense line allotted to them by the naval commanders in connection with the defense scheme.

The Department is aware from naval reports that, in view of the instructions of the Americans in the matter of defense of the integrity of the Settlement, the defense scheme contemplates the use of the American forces within the Settlement boundaries for the suppression of disorders. So long as there was no disorder and no threat of disorder in the section to be policed or patrolled by the Americans, I could find no justification for a request to Admiral Williams to land the American forces, and while I informed him in detail of the request made by the Municipal Council, and of the action taken by the British and the Japanese authorities, I indicated at the same time that I could find no justification for requesting him to land all, or any portion, of the American forces at the moment.

The Dutch cruiser in port would be prepared if necessary to land a force of about one hundred fifty men for service similar to that which the Americans would be called upon to perform. The Netherlands Consul General is awaiting an American landing before requesting his forces to land.

The Japanese Consul General tells me that he is prepared to request his forces to land as soon as there is any apparent need for it, and meanwhile his naval forces are being strengthened by additional ships being ordered here from Japan. As a matter of fact, the Japanese have already landed some of their forces and quartered them in the Japanese naval club and elsewhere, but this fact is not generally known and the Japanese Consul General does not consider the men landed as a "landing force" assigned to duty, but simply indicates that the men have been put on shore since it is not convenient to retain them on board crowded naval ships in harbor. Only a few hundred of his forces are so landed.

There has, of course, been considerable criticism in the community of the failure of the American forces to land, but I do not consider that the action of the American authorities should be governed by local criticism, whether in American or other circles.

I do not condemn the British action in throwing out their defense lines; in view of the large number of Chinese soldiers in the vicinity, and the unfavorable reputation of the Shantung troops, I believe that, had no British force been here the Naval Power Consuls would have been justified in asking the naval representatives to put out small parties of patrols or pickets to guard against any sudden difficulty which might arise through any possible conflict between the Kiangsu and Shantung forces.

The problem of finding billets for the increasing number of British military units (there are now some seven thousand men here) has been a difficult one for the British authorities, especially since they have been restricted to British-owned property within the Settlement

boundaries. With the establishment of the defense lines, however, upon the request of the Shanghai Municipal Council, the British troops are able to occupy Municipal property outside the limits of the Settlement, including the Jessfield Park, municipal schools and other properties on municipal roads in the western area, and Hong-kew Park to the north of the Settlement boundary.

This difficulty in finding billets, and the desire of the British to have established themselves on definite lines before any possibility of the arrival of Nationalist forces around Shanghai undoubtedly were controlling factors in the action taken to induce the Municipal Council to request military assistance for the defense of the Shanghai Settlement and adjoining residential areas.

I have [etc.]

C. E. GAUSS

S93.00/8345 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 3, 1927—noon.

[Received March 3—5:56 a. m.]

193. My 188, February 28, 4 p. m. Following from American consul general at Hankow:

"March 1, 2 p. m. My February 27, 1 p. m. Arms and ammunition were delivered to an officer of the Tenth Army on the written request of Minister for Foreign Affairs of a receipt taken for the material. Am again vigorously protesting against the promiscuous and arbitrary seizure of American vessels by the military authorities."

MACMURRAY

S93.00/8267

The Secretary of State to the Minister in China (MacMurray)

No. 448

WASHINGTON, March 7, 1927.

SIR: The Legation is referred to the despatch dated January 21, 1927, addressed to it by the American Consul General at Shanghai in regard to the activities of the National Christian Council of China.⁷⁴ It will be recalled that Mr. Gauss in this despatch dwelt particularly upon a manifesto issued by the Wuhan Chinese Christians, an English translation of which was published in the *North China Daily News* of January 19, 1927, and formed enclosure No. 2 with the despatch in question.

The Department was greatly interested in this despatch and its enclosures. It does not seem surprising, however, that a body of Chinese Christians should issue an expression of views highly nationalistic and even anti-foreign in tone. It would be more surprising, in the view of

⁷⁴ Not printed.

the Department, if the Chinese Christians were to adopt, together with their religion, what may be considered the foreign viewpoint on international matters.

The Department has noted with great interest a tendency on the part of Chinese Christians to assume an independent position in the conduct and management of the affairs of the religious bodies to which they belong. It is believed that a considerable element among the American missionaries believes that this is a normal development and encourages it.

In this connection, the Department would be glad to receive from the Legation any information that may reach it from time to time as to an increase in the degree of Chinese control over the property, the activities, or the policies of American missionary organizations. It would appear that by the common consent of the American missionaries and the Chinese Christians that provision of the treaties whereby the American Government would be authorized to make representations to the Chinese Government in regard to the persecution of Chinese converts on the ground of their acceptance of Christianity has become, in effect, non-operative. The Department, as a rule, does not desire to intervene on behalf of American concerns unless the latter are under effective American control and unless such intervention is specifically desired by the persons or organizations concerned.

The Department therefore desires to be kept informed of the progress of any progressive relinquishment by American missionary organizations to Chinese citizens of control over the activities of such organizations. Discreet inquiries will, from time to time, as opportunities offer, be instituted in the United States to the same effect.

I am [etc.]

For the Secretary of State:

LELAND HARRISON

893.00/8361 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 8, 1927—4 p. m.

[Received March 8—9:20 a. m.]

200. Regarding commander in chief's telegram of March 7th to the chief of naval operations, 0007-1800, concerning prevention of Chinese factions' naval fighting on the Whangpoo, I consider the Department's 216, September 13, 4 p. m., 1924,⁷⁶ applies and suggest that Admiral Williams be instructed to cooperate with his foreign colleagues to that effect and that I be authorized by telegraph to adopt this attitude should necessity arise.

MACMURRAY

⁷⁶ *Foreign Relations*, 1924, vol. I, p. 375.

893.00/8361 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, *March 9, 1927—6 p. m.*

84. Your No. 200, March 8, 4 p. m. and Department's No. 72, February 22, 11 a. m. [*February 25, 2 p. m.*]

1. In replying to commander in chief's No. 0007-1800, the Navy made reference to the instruction given in last paragraph of Department's telegram 72, and instructed him to exercise his personal judgment.

2. After consultation with Navy Department, State Department regards the present instructions to commander in chief as providing as fully as is practicable for military exigencies. This Department similarly leaves it to your discretion to make a decision in consultation with the commander in chief upon the measures which may be essential to protect American life and property in the Shanghai region and on the Whangpoo River. It is desired by the Department that you avoid, firstly, interference with the military measures of the Chinese unless indispensably necessary to protect American life and property, and secondly, commitments to other foreign powers as to protective measures. Movements of Chinese troops and naval vessels should not be made the occasion, except as a measure of demonstrable necessity for protection in each instance, for representations or for other action.

3. The Department's views have been made known to Navy Department.

GREW

893.00/8367 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, *March 10, 1927—6 p. m.*

[Received March 10—8:40 a. m.]

207. Following from Nanking:

"March 9, 3 p. m. Some 2500 Cantonese troops arrived at Wuhu on the 6th. Afternoon of the 8th a Cantonese-instigated mob wrecked customhouse at Wuhu and a general antiforeign riot occurred. Majority of the foreigners removed to hulks for safety. American mission buildings believed to be looted. American mission stations in southern Anhui had already been evacuated on advice from this consulate.

I have asked American consul general at Hankow to lodge protest with Minister for Foreign Affairs and to ask that order be maintained at Wuhu and American property be evacuated if occupied.

Large troop arrivals, mainly of the Twenty-third Division. Nanking apprehensive but outwardly quiet."

I have telegraphed Lockhart to protest in person if practicable and report result of his conversation with Ch'en.

MACMURRAY

893.00/8394 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 14, 1927—5 p. m.

[Received March 14—9:35 a. m.]

214. My 207, March 10, 6 p. m. Following from American consul general at Hankow, March 12, 6 p. m.:

"Lodged written protest with Ch'en through Commissioner of Foreign Affairs yesterday and saw Ch'en today and protested activities of the mob at Wuhu. Ch'en said that he had already sent a telegram to the authorities, Wuhu directing that strict order be maintained and that no foreigners or their property should be molested. He said that he would send another telegram especially urging protection of life and property Americans.

I am now lodging protest against further depredations just reported by Price at Foochow."

MACMURRAY

393.11/483 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 14, 1927—9 a. m. [sic]

[Received 9:55 a. m.]

218. My 214, March 14, 5 p. m. Following from Hankow:

"March 13, noon. Ch'en sent telegraphic instructions last night to Commissioner Foreign Affairs and Political Bureau at Foochow directing that special efforts be made to adequately protect life and property Americans in that region. Price informed."

MACMURRAY

893.00/8438

Memorandum by the Chief of the Division of Far Eastern Affairs (Johnson)

WASHINGTON, March 14, 1927.

The Chinese Minister called upon the Secretary at 12:00 o'clock today. He expressed the hope that the Secretary had enjoyed his vacation and felt restored in health. The Minister asked the Secre-

tary whether he had heard anything about the appointment of a Commission by the President to visit China for the purpose of investigating conditions there. The Secretary informed the Minister that he had never heard of any such proposition. The Chinese Minister informed the Secretary that he understood that there had been considerable agitation on the part of Americans in Shanghai for an increase in American armed forces at Shanghai. The Secretary informed the Minister that he was not aware of any such agitation, that certainly nothing had come to the Department of this kind.

The Minister stated that he hoped that the Secretary would pardon his appearing to make a suggestion but he was very anxious to know whether the Secretary would not be willing to use his influence to restrain the British at Shanghai, particularly inasmuch as the British had stationed troops outside of the area of the International Settlement at Shanghai. The Secretary informed the Minister that he could not be held responsible for the activities of the British at Shanghai; that he did not see how he could discuss the question with the British as he did not know just what plans the British had for protecting their nationals in Shanghai; that, of course, they would doubtless take such steps as seemed to them necessary to protect their nationals.

N[ELSON] T. J[OHNSON]

893.00/8513

The Ambassador in France (Herrick) to the Secretary of State

No. 7268

PARIS, *March 18, 1927.*

[Received April 1.]

SIR: I have the honor to report that I saw M. Charvériat, Assistant Chief of the cabinet of the Minister for Foreign Affairs, yesterday and talked with him regarding the French policy in China. He said that French policy continued exactly the same; they are firmly decided in no way to take part with any group in China, but to be absolutely neutral and to wait for the settlement of Chinese affairs by the Chinese. The French have sent the minimum force possible to protect their concession at Shanghai, and this force, including the police, does not number two thousand. Moreover, strict instructions have been given to this small force under no circumstances to set foot on the Chinese territory outside of the actual concession itself. M. Charvériat said that he understood the more considerable British forces have gone out of the concession on to Chinese territory to protect the approaches to the concession, but the French were not going to permit similar action on the part of their troops.

I remarked that the British had sent many more troops to Shanghai than had the French, and M. Charvériat replied that he supposed that

the British thought that a larger number might be needed at the time they despatched them. He said that, in his opinion, even if the Cantonese occupied the Chinese city of Shanghai, they would not attempt to enter the international concessions.

In reply to another question, M. Charvériat said that the British policy now seemed to approximate that of the French, but that in the beginning it had differed somewhat in that the British, while negotiating with the Cantonese at one point, were sending strong forces to oppose them if the need arose at Shanghai.

He concluded by stating that the only regular diplomatic relations that France maintained anywhere in China were still those at Peking, but that the French dealt with the Cantonese when the need arose and would extend their representation with the Southerners if events demanded it.

Throughout our conversation, M. Charvériat continually emphasized the complete neutrality of French policy. He stated that British policy differed in some details from that of the French but he seemed to believe that France would have a stronger position in the future China on account of this fact.

I have [etc.]

MYRON T. HERRICK

S93.00/8824

*The Consul General at Hankow (Lockhart) to the Secretary in Charge of the Bureau for Foreign Affairs at Hankow (Liu Ming-chao)*⁷⁸

HANKOW, March 18, 1927.

SIR: I have the honor to bring to your attention another case involving an unjustified attack upon an American naval vessel by Nationalist forces. The U. S. S. *Preble*, while at a point about nine miles below Wuhu, on March 11, 1927, was fired upon by a group of soldiers, the vessel having been struck several times.

This attack on the *Preble* is the culmination of a series of unwarranted acts directed against American citizens and their property at Wuhu and in that region. Notwithstanding repeated assurances that adequate protection would be afforded to American lives and property in the territory under Nationalist control, depredations of this character are being reported to this Consulate General almost daily. On behalf of my Government, I desire again to enter a vigorous protest against these acts of violence and to request that adequate measures be taken at once to prevent their recurrence. American lives and property appear to be in constant jeopardy, and the Ameri-

⁷⁸ Copy transmitted to the Department by the consul general as an enclosure to his despatch No. 360, Mar. 24; received Apr. 30.

can Government takes this means of expressing its great concern for the safety of its nationals not only at Wuhu and in that region but also in various other portions of the territory under Nationalist control. I shall be obliged if you will bring this matter to the attention of the Minister for Foreign Affairs.

Accept [etc.]

F. P. LOCKHART

893.00/8410 : Telegram

The Consul General at Shanghai (Gauss) to the Secretary of State

SHANGHAI, March 21, 1927—4 p. m.

[Received March 21—9:40 a. m.]

National forces took Minhang last night without serious resistance and this morning have reached Lunghwa Junction just outside Shanghai. No serious fighting has occurred. While reports indicate General Pi Shu-cheng⁷⁹ has made an arrangement with the Nationalists it is impossible to obtain confirmation. Disorders have occurred outside of Settlement in Chapei where laborers seized arms and attacked Chinese police stations, three of which they hold. General strike call at noon today. Demonstrations now occur in the streets of Settlement but no disorders yet reported. Some disorder and firing reported at north station of railway. Workmen in industrial sections have donned red arm bands and are disputing among themselves. Municipal Council has declared a state of emergency, mobilized volunteers and police, and requested assistance of foreign naval forces for international defense of Settlement. I have supported the request and the American marines are now landing. Japanese and Dutch also landing forces.

GAUSS

893.00/8415 : Telegram

The Consul General at Shanghai (Gauss) to the Secretary of State

SHANGHAI, March 22, 1927—4 p. m.

[Received March 22—8:27 a. m.]

Quiet is being maintained inside Settlement and foreign residence area to the west. Disorders continued last night and today in Chinese territory adjoining Settlement on the north where armed laborers, agitators, students, and others have conducted something of a reign of terror, looting, burning, and firing arms. Pi Shu-cheng's forces shot down a number of them yesterday afternoon, but last night he apparently abandoned the situation, although isolated

⁷⁹ Commander of Northern troops in Shanghai area. General Pi surrendered Shanghai to the Nationalists on the evening of March 21.

detachments Northern troops have continued firing, adding to the general confusion and disorder. Changchow, Wusih, and Soochow are reported in Nationalist hands. Northern troops from the latter place reported moving to join their comrades here. Nationalist troops are now moving to the area north of Settlement and it is hoped they will quiet the situation. Evacuation of foreigners from that area going on so far as possible but some of them are isolated, including Americans. Attempts being made to reach them without employing military force. Foreign troops have occasionally been fired upon by armed agitators. One Indian soldier killed, several British soldiers slightly wounded.

GAUSS

893.00/8421 : Telegram

The Consul General at Shanghai (Gauss) to the Secretary of State

SHANGHAI, March 23, 1927—midnight.

[Received March 23—5:18 p. m.]

Immediate situation has been somewhat relieved by the surrender of approximately 4,000 Northern soldiers to foreign forces. Some detachments of these troops closely pursued by guerrillas rushed the Settlement [*sections?*] held by British and Italian forces, opening fire; foreign troops returned the fire whereupon the detachments surrendered. Estimated 50 Northern soldiers killed and 100 wounded in these actions. Practically all foreigners in northern area, including Americans, have been withdrawn under foreign police escort.

General strike has spread; 155,000 industrial and public utility workers on strike including postal and customs employees.

Nationalist General Pai Tsung-hsi⁸⁰ arrived yesterday and has issued series of proclamations accepting responsibility maintenance public order, declaring Government will undertake necessary negotiations on unequal treaties and that undesirable characters will not be allowed to interfere in such governmental functions and that there is no intention recover China's sovereign rights by military force or measures endangering foreign life and property.

There is no evidence that the Nationalist forces have yet dispossessed the guerrillas, labor agitators and students of their control of the situation; sniping continues; laborers continue to be intimidated; the strike is spreading; the Nationalist forces evidently have not placed themselves in contact with the moderate Kuomintang leaders here; there is considerable uncertainty as to the attitude of the general labor union and some evidence of intention to continue radical methods. In short, the situation closely approximates that which

⁸⁰ Nationalist Defense Commissioner of Shanghai from this date.

existed at Hankow and other places and there is at present no justification for placing confidence in the Nationalist declarations of good intentions. With the forces they have at hand they could readily suppress all disorders in the disturbed areas and maintain complete peace and security. So far they have failed to do so. Thanks to the police volunteers and large foreign forces, quiet and order are being maintained within the Settlement and western area. Rains today have in some measure improved the situation.

GAUSS

893 00/8428

*Memorandum by the Secretary of State*⁸¹

[WASHINGTON,] *March 24, 1927.*

The Chinese Minister called today and complained about the articles written by Moore, a correspondent of the *New York Times*, which he said created suspicion and animosity among the Chinese. He referred especially to the fact that as reported in the *Times* American marines were put in the front line position with the British thereby implying that they desired to place the burden of defense on the Americans. I told him, of course, that this Government had nothing to do with the reports of correspondents and could do nothing about it, that the whole subject of the protection of Americans and foreigners in the International Settlement was left in the hands of Admiral Williams to take such steps as he thought were necessary; that it seemed to me that the occurrences of the last few days had demonstrated the fact that it was necessary to have the forces of the various countries present in order to protect the foreigners in the Settlement from mob violence and from violence by the retreating Cantonese [*sic*] forces.

He also expressed his satisfaction of the attitude of the United States and wanted to know if I was prepared to make any further statement about our policy in China; especially he mentioned the fact of our authorizing a special representative of the Government in Hankow to deal with the Cantonese. I told him that I did not think it was wise at this time to make any further statement on the conditions in China or Chinese policies; that so far as having a representative at Hankow was concerned I had understood that it was perfectly agreeable to Eugene Chen to deal through our consular representative there, Mr. Lockhart, who represented the Minister, and that I did not see the necessity immediately of having a special representative. He said that Great Britain had just appointed a new representative to deal with this subject. I told him there was

⁸¹ Copy transmitted to the Minister in China in instruction No. 476, Apr. 2.

also the question of who we had to spare for this work, and it seemed to me that the Consul could handle matters. I gave him no assurance that we would appoint any one at present.

He said he thought the Cantonese had made good their statement that they intended to protect the foreign settlement. I said I hoped so but that before the Cantonese had occupied the Chinese City of Shanghai many acts of depredation on the rights of foreigners had taken place which demonstrated the necessity of our naval forces being present in Shanghai. He did not deny this, but said he thought the Cantonese would protect the foreigners. I told him I very much hoped so. This was the substance of his interview.

893.00/8425 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, March 24, 1927—3 p. m.

[Received 9:20 p. m.]

246. 1. Yesterday local newspapers carried a United Press report, dated Washington, March 21, to effect that on March 20 it was stated officially there that the American marines landed in Shanghai will not join British forces extending into the Chinese city but are cooperating with the British for the protection of American lives.

2. If [correct?] that statement appears to impose a limitation upon that discretion which was vested (your No. 84, March 9, and No. 72, February 25) in the commander in chief to take whatever steps developments may make necessary in his opinion in order to protect American life and property.

3. Any such public intimation of unwillingness fully to associate ourselves under the circumstances with those who in fact are affording most of the protection to American citizens in Shanghai, tends in the present state of extreme tension to impair the vitally necessary co-operation with them and to give encouragement to the more pronounced Chinese elements to devise means to create dissensions between us.

4. Respectfully I request that I be given telegraph authorization to inform the commander in chief, the consul general, and (as may be required by the occasion) interested colleagues and the Chinese authorities that no change is represented by the United Press message in our determination that the commander in chief shall do whatever in his judgment is necessary for the protection of American life and property.

MACMURRAY

893.00/8425 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, *March 25, 1927—5 p. m.*

101. Your No. 246, March 24, 3 p. m. There is no basis whatsoever for the statement you report as carried by United Press. No change has been made in the orders issued Admiral Williams and repeated to you in Department's No. 72 of February 25, 2 p. m.

KELLOGG

893.00/8478a : Telegram

The Secretary of State to the Chargé in Haiti (Gross)

[Paraphrase]

WASHINGTON, *March 26, 1927—3 p. m.*

12. For Secretary of War Davis. With reference to your inquiry, Secretaries of State and Navy concur with opinion of War Department that your return is not required by the situation. Fifteen hundred additional marines have been requested by Admiral Williams. Secretary of State conferred this morning with Secretary of the Navy, the Chief of Naval Operations, and the Chief of Staff, with result that following message is being sent to Admiral Williams:

"Henderson with 1,500 marines will be sent, arriving Shanghai in about 30 days. Regiment of infantry from Manila can reach Shanghai in 7 days if situation demands. Davison."⁸²

Acknowledge receipt.

KELLOGG

393.11/506 : Telegram

*The Consul General at Shanghai (Gauss) to the Secretary of State*SHANGHAI, *March 27, 1927—6 p. m.*

[Received March 27—1:55 p. m.]

Situation here continues extremely tense. Mass meetings are being held by Chinese today in area near French Concession. Nationalist troops are patrolling streets in Chinese city and guarding all outlets from Chinese [city] to French Concession. French consul general assured me last evening no processions will be allowed to enter and if they break in they will be repulsed by firm action. All barricades between foreign settlements and Chinese areas are closed today; also barricades between French and International Settlements. Foreign residents of French Concession, where majority of

⁸² F. Trubee Davison, Assistant Secretary of War.

Americans reside, are dissatisfied with arrangements made in that area for protection, the French forces numbering only 2,400 including Annamites. British consul general and I today called on French consul general and urged him to ask for a reserve support from the British and American forces in International Settlement until his French reinforcements arrive. He will consult French Admiral and send us word tonight. My action was taken after consultation with Admiral Williams and General Butler. American marines in reserve will be available on brief notice. Reports indicate continued presence of so-called labor corps in considerable numbers in Chinese areas. They are men of loafer type and many are armed. Inflammatory literature is beginning to appear on streets in native city, and faithful Chinese report agitation against foreign settlements. General Labor Union demanded that Settlement authorities remove barricade defenses around Settlement by 4:30 this afternoon or the general strike will be resumed. Although Chiang Kai-shek is reported to have declared that he would maintain order and there would be no attack on the Settlements, it remains an open question whether he can handle the situation. The Nanking incident⁸³ shows clearly that radical tendencies have permeated the Nationalist military forces. I am satisfied that Chiang Kai-shek can only maintain the situation here by the use of military force against the radicals and it is very doubtful whether he has a sufficient or loyal force for that purpose and will resort to serious firm action to control the situation. Refugees from Nanking expected tonight and tomorrow. Attempts continue to reach merchant seamen at isolated river stations by destroyers. Some have been evacuated. Americans from a number of interior stations continue to filter in; so far they have not been molested.

GAUSS

893.00/8491 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, March 29, 1927—noon.

[Received March 30—9:53 a. m.]

277. 1. It seemed reasonable until quite recently to assume that Chang Tso-lin and the forces he controls would be able and willing to prevent any manifestation in the North against foreigners. Now, however, there is increasing doubt in my mind, and likewise in the minds of several of the best informed of our American executives of missionary and philanthropic institutions in Peking, as to whether

⁸³ See pp. 146 ff.

he could or would genuinely exert himself to do that. I am apprehensive that if he and Chiang Kai-shek should effect an understanding and division of territory in opposition to the radical element in the Kuomintang, the Northerners would fall in to such an extent with the antiforeignism of the moderate element of the Kuomintang as to prevent them from continuing their control of Soviet agents and the Chinese Communist faction in the North, a control which is effective at present. If no such understanding should be effected, the likelihood seems to be that Chang would withdraw to Manchuria, leave the territory of North China militarily indefensible against occupation by Nationalists and politically disorganized, with attendant anarchy and a tyrannic reign of terror. Even if Chang should remain at Peking despite the insistent advice of Yang Yu-ting, his chief counselor, he may sustain a defeat from the Nationalists and leave the Northern territory equally exposed. Americans in North China would find themselves in any of these eventualities as insecure as in Nationalist territory. In all probability it would become necessary to withdraw them for protection and for possible evacuation to Peking or to Tientsin.

[2.] Last Thursday, before receiving information regarding the Nanking incident, I had concluded that in view both of the condition of affairs along the Yangtze River, centering in Shanghai, and the probable necessity to extend protection in the Northern area to a large number of Americans, it was highly advisable that additional American forces be sent to China. This opinion has been confirmed by the Nanking outrages. I recommend with all earnestness therefore that those American army forces which it is my understanding are most immediately available, a reinforced brigade in the Philippines, should at once be sent to Shanghai. They could take the place of the marines on duty there now, who thus would become a mobile force available for patrolling duties to Tientsin, while retained on board ship temporarily at Shanghai. It would seem politically inadvisable under present circumstances to bring either a marine force or the Philippine brigade to Tientsin. Dispatch of additional forces to Tientsin, however, might be made immediately imperative by Chang's withdrawal to Manchuria or by a debacle of his army, which at any moment may occur. I am likewise considering that the starting of additional army forces to the Philippines, made ready for quick dispatch to China, is rendered expedient by the very serious condition of affairs obtaining at present, which is becoming increasingly dangerous to the lives of Americans in China.

3. To make possible more adequate means of giving our citizens protection in case of necessity in North China, I feel that calling in American army forces would have in itself a very sobering effect

on Nationalist leaders, who thus far have not shown any adequate sense of responsibility in matters involving personal security of Americans, let alone their material interests and rights.

4. Also I am strongly convinced that the dispatch of American army forces to China in the manner described above would do more than anything else perhaps to bring the Government of Japan into line in regard to protection of foreigners in China and to show our acknowledgment of the present situation in China which causes me serious concern.

5. We confront an increasingly grave situation unshielded. We must act at once, decisively, and comprehensively in the manner recommended, if we are to prevent an appalling disaster and protect American lives in China adequately either through bringing about a stabilization of the situation which would allow Americans to remain here or by providing means of evacuation as soon as possible in case the state of affairs should make evacuation inevitable.

MACMURRAY

893.00/8487 : Telegram

The Consul General at Shanghai (Gauss) to the Secretary of State

SHANGHAI, March 30, 1927—8 p. m.

[Received March 30—1:40 p. m.]

The following press report dated Washington, March 30th, received by the *China Weekly Review* from their Washington correspondent, understood to be J. I. Underwood, has been published here this evening.

"It was explained at the White House today that the President is convinced of the fact that the situation of China is more promising. It is intimated in official circles that there is no purpose in joining in any unified demand of punishment of those guilty in connection with the Nanking incident. Although the Shanghai situation demands cooperation, it was intimated in administration circles that the United States Government did not as yet feel that the China situation demanded the necessity of creating the unified command. Furthermore, it is felt that there is no necessity for additional troops, that is, in addition to those now in China and en route. It was emphasized again at the Department of State that the American forces in China are merely acting in a police capacity and that this does not mean intervention. In reference to the Nanking incident it was stated that it has not been determined the Cantonese were responsible."

This message not only is disconcerting to Americans here who, whatever their previous opinions, now are awakened to the necessity for strong action by the powers on the Nanking incident in order

to check the dominant control of the Nationalist movement by the radical Communist element, but is distinctly encouraging to that radical element now rapidly gaining control of the situation.

I trust the report is incorrect and that I may be instructed to repudiate it. The situation here remains unchanged with the radical and lawless elements holding a large measure of control and Chiang Kai-shek with limited forces taking no drastic measures to suppress them.

GAUSS

893.00/8487 : Telegram

The Secretary of State to the Consul General at Shanghai (Gauss)

[Paraphrase]

WASHINGTON, *March 31, 1927—6 p. m.*

Your telegram March 30, 8 p. m. Apparently the press report you quoted is based on the White House press conference March 29, during which in replying to questions the President stated that he had nothing to add to his statement the other day concerning the movement of American forces to China, at which time he had said he saw no necessity for increasing American forces in China. However, he wanted to say that he had hardly made that statement when a telegram was received from Admiral Williams requesting 1,500 additional marines, and these were of course being sent by the Navy Department. The President said he expected that these forces would suffice, that it might be possible that there might be no need for them, but that China was a long distance away in any case and to get a force assembled ready to send takes time. We have to anticipate what events might arise and we are depending upon the Admiral's requests for more forces. The Admiral, up to the time when the first statement was made, had not thought the sending of any larger force than he had in China was necessary. For a considerable length of time three cruisers were held at Honolulu awaiting his call, and some days ago they were dispatched. The purpose of our forces there is to protect our people and their property. Our forces are not an expeditionary force. They are in the nature of a police force to give our people protection insofar as they can. They are not allowed to make war on anyone. There is no organized military attack on our people but sometimes disorganized attacks are made by soldiers who are not acting, we presume, under authority from anyone attempting to function as a government, but who rather are acting as a mob. The liability of something like that breaking out at any time is the reason we are increasing our forces. There will not be

a change in the command of our forces in China. Our forces will of course be commanded by our own officers and it is not intended so far as I know to have any unified command. As is necessary, of course, we are cooperating there with other nations. I do not understand that the location of the foreign settlements is such that our people are altogether separated from the people of other nations. There is no separation of the French Settlement from the settlement of other nationals or the International Settlement, so that we all should act together in order to prevent a mob from forcing its way through at any time and to give protection to our own people. The above report is for your confidential and private information.

You will understand that the statement published in the *China Weekly Review* has no basis of truth and if you consider it wise to repudiate the statement you are authorized to do so.

KELLOGG

893.00/8511 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, *March 31, 1927—11 p. m.*

[Received April 1—3:15 p. m.]

310. My No. 277, March 29, noon.

1. Situation here during last two days has taken on graver appearance very rapidly. Feeling of apprehension of an antiforeign crisis here is very general among Chinese with whom Legation is in touch directly and indirectly. Certain missionary groups have found that their Chinese associates are insisting that arrangements be made immediately to turn the control of institutions over to them during the period to follow the expected driving out of foreigners. The happenings at Nanking appear as yet not to have had a definite reaction among the student element who, practically without exception, are Nationalist in their sympathies, but several perversions of that incident are gaining currency—one in effect that Northern agents disguised as Nationalist troops looted the city, and the other that foreign war vessels without provocation, and wantonly, bombarded the city, thereby killing 2,000 Chinese, because of hostility to the Southerners. It is reported by those in touch with local labor that workmen are highly organized and anticipate a period of demonstration and idleness. Chinese authorities report unusual activity and meetings of Chinese and Russian committees in the Soviet Embassy and that considerable quantities of arms are in storage there. The Chinese authorities pro-

fess to have information of the arrival of many of the gunmen and agitators from Shanghai and Hankow in Peking and in Tientsin where already agitation among mill hands and rug weavers is being worked up. See my No. 309, March 31, 10 p. m.⁸⁴

2. The general opinion held by foreigners, including among them missionaries of long standing who hitherto have been disposed to place confident reliance upon the good will of Chinese, is that very serious trouble will occur in the Peking and Tientsin area in the not distant future. However, there is entire uncertainty whether the trouble expected will occur within a comparatively few days or sometime between now and next autumn, although seemingly the probability favors an early date. Chang Tsung-ch'ang's quite probable defection may cause Chang Tso-lin at any time to withdraw to Manchuria, leaving the Communist agents and gunmen to take over this region even before Nationalist armies could arrive. A particularly difficult problem as to evacuation of the American citizens in this area is created by the uncertain time element involved. The obvious dictate of prudence is to get out at least the women and children as early as possible, but there is danger that any overt, conspicuous action in that direction would create not only panic and needless hardship and difficulty but would antagonize Chang Tso-lin by demonstrating a lack of confidence in his control of the situation, thereby precipitating the eventuality that is feared. However, I am advising the local responsible heads of American institutions that they should take means to send American women and children out of China as quickly as it is possible to do so inconspicuously, without creating alarm.

3. This afternoon at a conference with Consul Berger⁸⁵ and General Castner⁸⁶ I concurred in the General's recommendations that the transport *Thomas*, carrying reliefs for Tientsin and the Philippines, should be diverted by the War Department to Tientsin instead of Manila, and that she should if possible also bring [garbled groups] company and a motorized artillery battery from Hawaii.

4. I understand from military attaché that the dispatch of reenforced brigade from the Philippines to China, as recommended in my No. 277, March 29, noon, and the sending of 1,500 marines, as recently requested by Admiral Williams, constitute the first two measures in the "plan yellow" of the War Department for protection of Americans in China. In my judgment the situation which now has developed urgently requires that that plan be put into effect. In carrying it out I would suggest, however, that for the time being it should appear, at least ostensibly, that all forces sent to China are

⁸⁴ Not printed.

⁸⁵ David C. Berger, consul in charge at Tientsin.

⁸⁶ Brig. Gen. Joseph C. Castner, commanding 15th U. S. Infantry at Tientsin.

directed towards Shanghai rather than Tientsin in order to avoid needlessly antagonizing Chang Tso-lin, the only remaining bulwark against anarchy in China.

MACMURRAY

893.00/8508 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 31, 1927—midnight.

[Received April 1—6:55 a. m.]

311. Following telegram has been sent to the commander in chief, United States Asiatic Fleet:

"March 31, 11 p. m. Reference my number 277, March 29, noon, to the Department of State, repeated to the American consul general at Shanghai for your information.

1. As a result of conference this afternoon with Brigadier General Castner and the American consul in charge at Tientsin, I recommend the despatch *Sacramento* or *Asheville* to Tientsin for an indefinite stay. This seems necessary in view of the general situation, which appears to be growing more dangerous, particularly at Tientsin where Communist agitators are reliably reported to have concentrated for the purpose of inciting immediate antiforeign feeling and disorders."

MACMURRAY

893.00/8942 : Telegram

The Commander in Chief of the Asiatic Fleet (Williams) to the Office of Naval Operations, Department of the Navy

0002. Your 1031-1645 and 1031-1650. In reply to Secretary of State: It is my opinion that Americans may soon be in danger in North China. I recommend that if they are to be withdrawn that they go to Tientsin and not to Peking and that as many leave China as possible. Also that the American Legation and staff move to Tientsin in the event of serious danger. The blunder of being trapped in Peking which was committed in 1900 should not be repeated.⁸⁸

I am not in favor of bringing a brigade of army troops to relieve the Shanghai marines there now but recommend that such brigade be made ready to sail directly to Tientsin on short notice, my reasons being that the marines are established here and it would be lost motion to displace them. Furthermore I have no ship but the *Charmont* in which to put them and she may be required to make a trip to the Pacific Coast. The *Henderson* is due in Shanghai about April 28 with a regiment of marines; I plan, if necessary, to send them to North China. There is

⁸⁸ *Foreign Relations*, 1900, pp. 155 ff.

another regiment of marines being organized at San Diego for possible service on this station.

In reference to American Minister's despatch 277 of 29 March, I am in general agreement with his estimate of the situation politically as contained in paragraph 1 of his despatch and feel that the position of foreigners in China is becoming more insecure daily. In my opinion it would be wise to send enough troops to the Philippines and hold them in readiness there to form an expeditionary force of about one division. This rough estimate subject to revision by responsible Army authorities. In making it I have in mind the necessity for cooperating with other nations, to secure Tientsin as a base and a refuge for the Legations as well as to protect the foreigners there. 2345.

Received at 19:29, 2 April, 1927.

803 00/8508 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, April 4, 1927—3 p. m.

123. Your telegrams No. 277, March 29, noon; No. 310, March 31, 11 p. m., and No. 311, March 31, midnight.

In consideration of Admiral Williams' views which were set forth in his telegram No. 0002-2345, in which you will note he expects to have at Shanghai about April 28 an additional regiment of marines available for possible use in Tientsin, will not the situation in Tientsin be provided for to your satisfaction by holding in Manila a regiment of white troops (strength with detachments approximately 2,000) available on short notice in Tientsin within seven days?

There will be available for service a division of troops on the Pacific Coast when needed to reinforce present forces in Asia. The question is being considered here whether or not this division should be started for the Philippines so as to be available in case of need.

The steps you are taking to secure the evacuation of civilian Americans to Tientsin are approved by the Department. It agrees with Admiral Williams that in the event of serious danger the Legation and staff should remove to Tientsin in order to avoid a repetition of the situation in 1900. I believe you should begin to give encouragement to the women of the Legation to leave Peking.

The War Department is informed by General Castner that the other foreign detachments in Tientsin are to be reinforced. State Department desires you, if you can, to furnish it with details regarding the nationalities and numbers of reinforcements.

KELLOGG

893.00/8945

*The Chief of Staff of the War Department General Staff (Summerall) to the Acting Secretary of War (MacNider)*⁸⁹

[WASHINGTON,] April 5, 1927.

1. In compliance with your request I desire to submit the following brief estimate of the situation in China.

2. If the situation in China is a matter of the greatest urgency the War Department is willing to send one white regiment of Infantry from the Philippines if ships can be found in Manila Bay in which to transport the regiment. If the necessary shipping is available, this force should reach Shanghai in ten (10) days or Tientsin in thirteen (13) days. This includes 5 days for chartering, unloading, loading and unloading at destination. Information on file in the War Department indicates that the average number of ships in the Port of Manila is sufficient to furnish the necessary water transportation.

In connection with the sending of troops from the Philippines, the War Department recommends that no native or Philippine Scout troops be sent to China.

3. If the urgency permits of a greater delay, it is recommended that a reinforced brigade with a strength of approximately 5,000 men (peace strength organizations) be sent from Honolulu.

Such an expedition should consist of a brigade of Infantry, a regiment of artillery, a company of gas troops (with non-toxic gas), a tank company, a signal company, and the necessary ordnance, medical and quartermaster troops and equipment. Assuming that ships could be found in Honolulu Harbor, such an expedition should reach Tientsin in 25 days, Shanghai in 23 days. This time includes as before, 5 days for chartering, unloading, loading and unloading at destination. The United States Army Transports, *Thomas* and *Chateau Thierry*, are in the neighborhood of Honolulu at this time. Data on file in the War Department indicates that the average number of passenger ships to be found in Honolulu is two in any one day.

4. If the urgency of the situation in China be still not so great, it is considered preferable to send troops from the Pacific Coast. In this case, the 3rd Division should be sent.

Ships can be found in San Francisco to transport the force. The length of voyage from San Francisco to Tientsin is 29 days, and to Shanghai 27 days. This time includes as before 5 days for chartering, unloading, loading and unloading at destination.

⁸⁹ This paper bears the notation: "Copy received by N[elson] T. J[ohnson] from the Assistant Secretary of War."

5. It is believed that nothing has as yet happened to justify reinforcing by the Army our garrisons either in North China or in Shanghai. It is not believed that the Chinese will attack Americans unprovoked by us. Moreover, it is deemed very unwise for this country to appear to lead in the matter of increasing the foreign forces now present in China.

It is believed that the sending of four 75m/m guns and one platoon of gas troops direct from Honolulu to Tientsin as recently recommended by the Commanding General, United States Forces in China, would be of no material use but would unfavorably draw attention to the reinforcement of our forces in China.

The foreign forces now in Tientsin and Peking are able to protect themselves and the foreign nationals from mob violence. No small reinforcement would be of value for this purpose nor would the present troops with small reinforcements be able to withstand any attack from a Chinese Army. Such an attack is believed to be most improbable. The Chinese leaders know that the foreign nations would probably send armies to overcome them and this would defeat their own ambition.

However, if one or more of the foreign nations should commit an act of war on China, such as bombarding the forts on the Pei Ho River or attacking Chinese troops, the leaders would undoubtedly assume the offensive. It is believed that by refraining from interfering with Chinese leaders and their forces no serious menace will exist to our nationals. It will be remembered that the regular Chinese troops were not engaged in attack in 1900 until the Taku Forts had been captured by the foreign warships.

6. If foreign governments believe protection in China is necessary and the United States concurs in such views, then a combined expedition should be sent whose strength and respective proportions should be established by mutual arrangements.

It is believed that a minimum force of 50,000 men would be required to prevent any serious harm by Chinese troops to officials and nationals of the foreign powers in Tientsin and Peking.

This force could not keep the railroad or the Pei Ho River open, but could provide for local defense in the two places.

Our proportion, if such an international force should be sent, should be one division of approximately 15,000 men. In 1900, a force of 2,000 troops were unable to reach Peking. A force of 5,000 was able to capture Old Tientsin and relieve the first expedition.

The relief expedition consisted of 18,600 men and was exhausted on reaching Peking. America's proportion of this expedition was 2,500.

America's force now in North China consists of 450 marines in Peking and two (2) battalions of Infantry at Tientsin. The strength

of the Infantry on February 28th was 45 officers and 810 enlisted men. Headquarters of the forces and service troops brought the total strength up to 60 officers and 870 enlisted men.

C. P. SUMMERALL

893.00/8607 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, April 6, 1927—10 a. m.

[Received 6:20 p. m.]

359. Paragraph 2 of my telegram No. 277, March 29, noon and paragraph 4 of my No. 310, March 31, 11 a. m. [*p. m.*]

1. As is indicated by these telegrams, I have with considerable apprehension thus far delayed making a categorical recommendation that American army forces be dispatched immediately to Tientsin, fearing to antagonize Chang Tso-lin needlessly and thus further jeopardize our position in North China. It appears now, through various contacts with Chang Tso-lin and his staff, that this danger could easily be overcome provided we were given sufficient advance notice to inform Chang and enable him to save his face by explaining he had knowledge of our precautions against possible activities of extremists and approved of those precautions. It is indeed my opinion that the immediate appearance of an additional foreign force at Tientsin, to stabilize the situation there in particular and that in North China in general, would be welcomed by the vast majority of Chinese (as is the case at Shanghai despite the large force of British there, which was described by the German Minister as a god-send, and described by the Japanese Minister as the only thing that had prevented a great disaster).

2. A very real, imminent danger exists, either to be averted or met. I cannot too earnestly recommend therefore that the regiment of marines which is scheduled to arrive April 28th at Shanghai be diverted to Tientsin and that the reinforced Philippine brigade be dispatched to Tientsin immediately. The reinforcements requested by General Castner (my No. 310, paragraph 2 [3]), who states that he needs a division, are likewise rendered necessary by the urgency of the situation. I trust State Department will be able to persuade War Department to take such action, which I have now learned from General Castner was refused in the first instance.

3. Such action would in the near future bring the total of American forces at Tientsin to about 5,000, of which, in case the occasion required, the marine regiment would be available for Peking. I hope that with the division which the commander in chief by his No. 0002-2345 agrees should be sent to the Philippines and the army corps

which is contemplated by "plan yellow" in prospect, we would have sufficient force, present or entrained, to enable us to give protection to our people in the North and to afford such safety to them in their withdrawal as is made possible for the Yangtze region by Shanghai.

4. I submit in this general relation that airplanes of both attack and observation types, would be of the greatest usefulness in China. Chinese are ignorant of the effectiveness of this weapon and are apt to disparage it. Should the occasion arise it could be employed most usefully, with a probably overwhelming element of surprise. Therefore I suggest that a large number of airplanes should accompany the division to the Philippines and that a substantial detachment of planes should be sent to Tientsin at once from the nearest station (the British force at Shanghai adequately supply Shanghai in this respect). Landing fields can be prepared readily on the glacis of Legation Quarter.

5. The dispatching of the above was just about to take place when I received your No. 123 of April 4. While the above seems to reply sufficiently to your first paragraph I briefly repeat the steps that I consider should immediately be taken so that you may be in position to safeguard those Americans in China generally and in North China particularly who at present are without proper protection. First, the Philippine brigade should be sent to Tientsin at once; second, the regiment of marines on the *Henderson* due April 28th at Shanghai should be diverted to Tientsin; third, the reinforcements General Castner requested should be sent to him, and an airplane detachment sent from the nearest station as well; fourth, the division to the Philippines should be started at once, ready for call to Peking; and fifth, the remainder of "plan yellow" should as previously recommended be put into effect.

6. Repeated for information of commander in chief to American consul general, Shanghai, and for information of General Castner to American consul, Tientsin.

7. At an early date I shall telegraph with regard to question of Legation remaining here or withdrawing and as well with reference to Department's No. 123, April 4, last sentence.

MACMURRAY

893.00/8598 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 6, 1927—3 p. m.

[Received April 6—1:04 p. m.]

364. Yangtze Patrol commander telegraphed April 6 that Japanese plan to defend their Concession at Hankow, and the present force there is two cruisers, four destroyers and one gunboat.

MACMURRAY

893.00/8625 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, April 8, 1927—8 p. m.

[Received April 8—6:25 p. m.]

388. My No. 359, April 6, 10 a. m.

1. Foreign commandants at conference, Tientsin, April 6, unanimously expressed the opinion that the more troops on the spot the less likely the necessity will be to take military action and they submitted that to this end an increase of the garrisons in North China to 25,000 men forthwith would be the best solution. They agreed to transmit this opinion to their respective Ministers.

2. I concur.

MACMURRAY

893.00/8641 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 10, 1927—9 p. m.

[Received April 11—12:45 a. m.]

398. Following is translation of statement being sent to their respective Governments by each of the representatives named therein:

"The representatives of the United States, England, France, Italy and Japan, in an exchange of views on the general situation, were unanimous in recognizing that the arrival of the Cantonese in North China and in Peking is of a nature to inspire the most serious fears for the security of the life and property of foreigners.

The state of anarchy which exists at present at Hankow, where the Government is entirely under Communist and Bolshevik influence, the repeated incidents in the Yangtze Valley which resulted in the Nanking massacre organized by the local Communist cell, the fact that at Shanghai the moderate Kuomintang element represented by Chiang Kai-shek is overborne by the unions, the campaign of antforeign propaganda which is being carried out methodically not only in the provinces occupied by the Southerners, but in Tientsin, in Peking, and even in Manchuria as is shown by the documents seized at the time of the search of the Dal Bank, demonstrate clearly that the least weakening on the part of Chang Tso-lin might result in the North in disorders even more grave than those at Nanking deliberately organized by the Communists with the assistance of Soviet agents.

Under these conditions the representatives concerned, conscious of their responsibility, believe that they should urge their respective Governments immediately to adopt measures capable of guaranteeing the security of the foreign community at Peking and at Tientsin,

where the present effective forces of four thousand men are clearly insufficient to assume the defense of the strategic points, and, in particular to guard the integrity of the Concessions and of the Legation Quarter and to assume [*assure*?] the freedom of communication between Peking and the sea."

MACMURRAY

893.00/8641 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, April 12, 1927—6 p. m.

146. Your telegrams No. 359, April 6, 3 p. m. [10 a. m.], No. 388, April 8, 8 p. m., No. 398, April 10, 9 p. m.

1. Above messages were referred to War and Navy Departments.

2. If the recommendations in your No. 359, paragraph 1, were followed, Department considers they would be interpreted as indicating a desire by this Government to side in the present strife in China with Chang Tso-lin.

3. All your telegrams referred to above indicate your belief that the United States Government should maintain its Legation in Peking by armed force. In your 359 you stated that you were reporting on the question of advisability of withdrawing the Legation.

4. The belief of the War Department after carefully studying the problem is that it would require a minimum force of 50,000 men to prevent any serious harm to nationals and officials of foreign powers in Peking and Tientsin by Chinese troops. This force could provide for local defense in those two places but could not keep open the railroad or the Pei Ho. It would require sending a much larger force to keep open the communications between Peking and the sea not only at Tangku but as well at Chinwangtao which is necessary to control the supply of coal needed for the railway.

5. The Department is not convinced in view of the great cost in life as well as treasure which is involved that it is worth the effort to continue the Legation at Peking. The Department would prefer to have you make all preparations for removing the Legation to Tientsin rather than risk danger of having the Legation trapped with consequent necessity for repeating the events of 1900. Naturally the Department must leave to your discretion the question of the time for such removal.

6. It is not considered wise by the Government to dispatch to the Philippines at this time a large force of land troops. Therefore the Government is not prepared to dispatch immediately a division of troops to the Philippines, to be held there for use in China. This

Government will be prepared to send more marines to protect the lives and property of Americans at Tientsin if the powers desire for the time being to hold Tientsin as a place of safety for the concentration of foreigners. This Government does not desire for obvious reasons to take the initiative in proposing to the interested powers that Tientsin be held. This Government has no information regarding the intention of the other powers in this matter. The latest information it has is that the British Government was carrying on negotiations which looked to a transfer of its Tientsin Concession to Chinese control. Naturally this Government has no wish to furnish an excuse for breaking off any such negotiations. You are further aware that in the spring of 1926 during Chinese military operations in the neighborhood of Tientsin and Peking the American force at Tientsin suffered more than a little embarrassment due to the isolated position it occupied outside of foreign concessions in Chinese territory. This Government is persuaded by these considerations that it should wait for the initiative of the other interested powers in regard to the question of having an international force occupy the city of Tientsin for the purpose of holding Tientsin in the interest of foreign residents. Therefore any plans made by you for the future of the Legation at Peking and of the Americans resident in Tientsin should contemplate a possible evacuation of Tientsin. It is desired by the Department that you should not take any initiative regarding the question of whether or not Tientsin should be held by the protocol powers.

KELLOGG

893.00/8685

The British Ambassador (Howard) to the Secretary of State

No. 262

WASHINGTON, April 14, 1927.

SIR: I have the honour to inform you that I am today in receipt of a communication from His Majesty's Government informing me that His Majesty's Minister at Peking has on his part thought it his duty to warn His Majesty's Government that there is serious danger lest a situation should arise at Peking similar to that which developed in 1901. The Commandants at Tientsin take an equally grave view of the position and demand that the international forces at Tientsin and Peking should be raised to a figure of 25,000.

His Majesty's Government have undertaken the main burden of the defence of the settlement at Shanghai. It is not reasonable, therefore, to expect that they should, in addition, assume an equal burden in the North, and they have instructed His Majesty's Representative that unless effective international cooperation can be secured, he must make arrangements, in case of necessity, for the evacuation by the

British of both Peking and Tientsin. His Majesty's Government realise the serious consequences of such a decision for other nations, as well as for Great Britain, and it is with the greatest reluctance that they have brought themselves to contemplate it as inevitable unless Japan and the United States are prepared to do their share in the defence of common interests against the danger which threatens all equally.

In bringing the above information to your notice, I am instructed to invite an expression of the views of the United States Government regarding the present situation at Peking and Tientsin and the measures which should be taken to meet it. In this connection, I have the honour to add that, according to advice received by His Majesty's Government, the Commandants' figure of 25,000 men quoted above is an under-estimate and reinforcements of two divisions would be required to hold Tientsin and its lines of communication. His Majesty's Government as their contribution to such forces might possibly be able to make available the one brigade at present under orders for China, but this brigade cannot arrive before the middle of May and its disposition on arrival must be governed by the circumstances obtaining at that time.

I have [etc.]

ESME HOWARD

893.00/8735

Memorandum by the Secretary of State

WASHINGTON, April 20, 1927.

The British Ambassador called today to discuss with me the British notes of April 14 and April 18⁹⁰ and at the same time discussed the British note of April 14 on the subject of the British attitude on the subject of additional forces to be sent to Peking and Tientsin. I told him that I was not prepared to make a definite answer as I wished to consult further with the Navy Department and War Department but, in a general way, the War Department agreed with the British that if Peking and Tientsin were invaded by any considerable Chinese armies who undertook to make war on the foreigners, 25,000 men would be entirely inadequate to defend Peking, the railroad, and Tientsin, the coal mines and the railroad to Chinwangtao; that our estimate was that it would require at least 50,000 men and probably more if the coal mines were to be protected in order to maintain their operation; that it did not seem to be probable that any such invasion would take place. The British Ambassador agreed with me. I told him that we were not prepared at this time to send a division of soldiers to Peking and Tientsin and, according to

⁹⁰ Notes No. 263, Apr. 14, and No. 268, Apr. 18, pp. 191 and 201, respectively.

the British estimate and our own, one division from us would be entirely inadequate; that we would be prepared to send additional marines and if the other Governments did the same, we thought the force would be adequate to protect our Legation and nationals against mob violence; that as it was indicated that [*what?*] the British Government was doing, we were also considering the advisability, if the necessity demanded, of evacuating Peking and Tientsin rather than go to the loss of life and expense of defending both cities. I informed him of the number of Americans there—in February 1926 there were about 656 in Tientsin and 968 in Peking. These figures might not be accurate today as refugees have been coming in from surrounding points and some have already been evacuated, especially women and children. I then informed him confidentially that according to our information the Japanese took the same attitude. This, of course, was not a surprise to the British Government because the Vice Minister of Foreign Affairs notified the British Ambassador in Tokio. I told him that I would formally answer the note.

893.00/8756 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, April 22, 1927—5 p. m.

[Received—7:07 p. m.]

473. Department's telegrams No. 146, April 12; No. 165, April 15; and No. 174, April 20.⁹¹

1. Referring to question of whether Peking and Tientsin are tenable in extreme eventualities (in other words in the face of an organized and determined attack by Chinese military forces) my view fully coincides with that of the British Government that arrangements for evacuation of these places would have to be made unless effective international cooperation can be secured. If such a decision should be required by circumstances, it would be necessary in any case to hold Tientsin temporarily as a place for concentration and embarkation.

2. Such is my conception of that question in its fundamental aspect, but it seems to me that the question of withdrawing the Legation from Peking does not call for decision immediately. The measures taken against Communists both in the North and South, the present division in the Kuomintang, and the military successes of the Ankuochun recently, have relieved the pressure for a decision

⁹¹ Last two telegrams not printed.

respecting Peking, though not obviating in any sense the need for considering the question as raised by the British Government.

3. Bearing in mind the eventuality that such a decision may have to be made by us, we could, I venture to say, withdraw from Peking honorably only with care to meet our international obligations under the Boxer protocol.⁹² This would involve frank discussions with the other powers principally interested, at any rate, and unreserved disclosure to those powers of what we are prepared or not prepared to do. If we should withdraw from Peking the reasons making that course necessary would operate to make the evacuation of Tientsin imperative, and will necessitate a temporary haven to serve as a point of concentration. In my opinion the only course to pursue in such circumstances would be to withdraw all our diplomatic and our consular officers from China, after securing the retreat of American nationals, and to make a public announcement that China could be dealt with no longer on the usual basis of intercourse between nations.

4. Although there is as I have stated a relaxation in the imminence of disorders in the North for the time being, nevertheless the structure of our safety is even now very flimsy and primarily dependent upon the continued control and indeed the life of one person, Chang Tso-lin. Since you are not to make troops available, as was indicated by your telegram April 12, 6 p. m., paragraph 6, I trust that American forces at Tientsin may have the reinforcement of the additional regiment of marines which has sailed on the *President Grant*, I understand, and that the eventual possibility of having temporarily to hold Tientsin for purposes of covering evacuation may be further considered. Should such a cooperative arrangement as was suggested by the British Government not be made, we would in the event of an emergency have to depend in the last analysis upon Japanese assistance.

5. Tientsin is congested with refugees at the present moment. With a view to relieving that pressure and to forestalling any tendency on the part of those American nationals who have a short view of events to disperse to inland stations, I have given my approval to the suggestions of various American educational and missionary institutions in Peking to send as many of their people as is possible to Pehtaiho, from where in an emergency they may be evacuated to Chinwangtao.

6. Repeated to Shanghai for information of commander in chief and consul general, and to Tientsin for confidential information of General Castner and the consul in charge.

MACMURRAY

⁹² *Foreign Relations*, 1901, appendix (Affairs in China), p. 312.

893.00/8759 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW [undated].

[Received April 23, 1927—10:10 a. m.]

31 to the Legation. At a conference with Ch'en today lasting almost an hour and at his request, the deplorable state of foreign business at Hankow was discussed. He stated that the authorities here have been so preoccupied with other pressing matters that they have had to neglect taking steps to remedy the serious economic situation that has arisen but now that "Chiang Kai-shek has been definitely disposed of as a factor in Kuomintang Party affairs" the Government here will devote itself to restoring confidence and reestablishing undisturbed business intercourse and therefore make it possible for foreigners to remain. He first inquired why there had been such substantial increase in American naval strength here, and I said that foreign lives and property at Hankow had become so insecure and there was such a complete absence of even the ordinary protection generally afforded by the Chinese authorities that it was necessary for the protection of American life and property to augment our forces. He said that he had intended issuing a public statement on the means to be adopted to afford protection to foreign business but that the arrival of additional naval forces made it difficult for him to speak for fear it might be interpreted as a weakening on his part out of fear of foreign gunboats. I told him that it was imperative that steps be taken immediately to remedy the present chaotic state of affairs else practically every American businessman would be out of the port within a week or ten days; that three American businessmen had informed me yesterday that they had ceased doing business because of the money situation. Numerous specific cases were cited showing the utter futility of continuing indefinitely under present conditions and concrete instances were given where he might today solve some pressing problems now facing American businessmen. He asked that a group of American businessmen come to see him at once concerning their difficulties so that he might tell them what he proposes to do to relieve them. I told him that the case was very clearly and emphatically put up to him by American businessmen last January and that all the satisfaction that was obtained was an evasive acknowledgment of the letter two months later and that every businessman in the port was dismayed at his indifference to so important a question. I told him I would convey his request to American businessmen.

With Chiang, Chang Tso-lin on the north, Yang Sen on the west and Canton definitely aligned against the Hankow Government and

the local financial and business situation paralyzed, Ch'en is finding himself in a very uncomfortable position and it seems on his part essential to use the foreigner to help bolster up the Nationals' case. Aside from a more reserved attitude than he generally displays, I was impressed with his enmity for Chiang Kai-shek and his evident dissatisfaction with the recent turn of events here. Legation informed.

LOCKHART

893.00/8685

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, April 26, 1927.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of April 14, 1927, in which you inform me that the British Government has received a communication from its Minister at Peking indicating that there is danger lest a situation should arise at Peking similar to that which developed in 1900 and stating that the commandants of the foreign expeditionary forces at Tientsin who take an equally grave view of the situation have recommended that the international forces at Tientsin and Peking should be raised to a figure of 25,000.

You state that the British Government has undertaken the main burden of the defense of the settlement at Shanghai, that it is therefore not reasonable to expect it to assume an equal burden in North China and that it has instructed its Minister at Peking that, unless effective international cooperation can be secured, he is to make arrangements in case of necessity for the evacuation of both Peking and Tientsin. You state that the British Government realizes the serious consequence of such a decision for other nations as well as for Great Britain and that it is with the greatest reluctance that it has brought itself to contemplate evacuation as inevitable unless Japan and the United States are prepared to do their share in the defense of common interests against the danger which threatens all equally.

You say that you have been instructed, in view of the above, to invite an expression of the views of the United States Government with regard to the present situation at Peking and Tientsin and the measures which should be taken to meet it. You add that according to the views of the British Government the figure of 25,000 estimated as sufficient by the commandants at Tientsin is an under-estimate, it being the view of the British Government that reenforcement of two divisions would be required to hold Tientsin and its lines of communications, and say that the British Government might possibly be able, as its contribution to such forces, to make available the one

brigade at present under orders for China. In conclusion you state that this brigade cannot reach Peking before the middle of May and that its disposition on arrival will have to be governed by the circumstances obtaining at that time.

The Government of the United States is not unappreciative of the steps which have been taken by the British Government in the defense of the settlement at Shanghai. The Commander-in-Chief of the United States Asiatic Fleet has been at Shanghai for some time and has conferred frankly and freely with the naval representatives of the other Powers concerned on questions relating to the protection of their several groups of nationals at Shanghai, and, where the lives of foreigners have been imperiled in common, the naval forces of the United States under his command have cooperated with the defensive forces of the other Powers in the common task of making the settlement a safe refuge for foreigners at Shanghai. The Government of the United States believes that when the extent of the several foreign interests and the numbers contained in the several foreign groups at Shanghai are compared it will be found that the United States has not failed to bear its share of the burden of protecting not only its citizens but other nationals as well.

With reference to the present situation at Peking and Tientsin and the measures which should be taken, the Government of the United States maintains at Peking and Tientsin, and along the line of communications between Peking and the sea, a mixed force of marines and infantry amounting to some 1300 men. It expects shortly to have available within easy reach of Tientsin additional marines numbering some 3000 men, to be used in case of necessity for the protection of the American Legation at Peking and of American citizens and their property in North China against mob violence. In addition to this number of men there will be available in case of emergency for use in North China a regiment of infantry from the Philippines numbering approximately 2000 men. Like the British Government, the Government of the United States has been advised by its Minister at Peking that the commandants of the foreign expeditionary forces at Tientsin have estimated that reenforcements amounting to 25,000 men will be needed at Tientsin. The Government of the United States, however, finds itself in agreement with the British Government that 25,000 men would be inadequate for the purpose of rendering the foreign legations at Peking and the foreign communities at Tientsin and communications connecting Peking and Tientsin and the sea safe against a determined attack by the Chinese military forces. The War Department of the United States after a careful study of the problem has expressed the belief that, while a minimum force of 50,000 men would be required to prevent any serious harm by Chinese troops to officials

and nationals of the foreign Powers in Tientsin and Peking, such a force would not be able to keep the railway or the Peiho River open, but would provide merely for local defense in the two places. To maintain communications between Peking and Tientsin and the sea, as well as communications with Chinwangtao and the Kaiping coal field, the latter in order that coal necessary for the use of the railways might be available, would require an even larger force. The Government of the United States is frankly of the opinion that, if there is any likelihood that the incidents of the summer of 1900 are to be repeated at Peking and Tientsin, it would be better to evacuate the American Legation and American citizens from Peking and, if necessary, from Tientsin rather than go to the great expense and the almost certain loss of life necessary to maintain our nationals and Legation by force at Peking and Tientsin. The Government of the United States has been considering the question of the evacuation of its Legation from Peking and has instructed its Minister at Peking to consider this question and to discuss it frankly with his colleagues.

Accept [etc.]

FRANK B. KELLOGG

808.00/8781 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

U.S.S. "CINCINNATI" AT HANKOW, April 26, 1927—noon.

[Received April 26—10:40 a. m.]

Eugene Ch'en has made public the following statement:

"On Saturday, April 23d, the Minister for Foreign Affairs received the American consul general and a deputation of representative members of the American business company [*community?*] in Hankow. In reply to a specific question the Minister categorically denied the suggestion that it is or has ever been the policy of the Nationalist Government to destroy foreign trade in China. He pointed out that Dr. Sun Yat-sen had written a considerable book in which it was insisted that foreign capital and assistance was necessary for the efficient development of China. This thesis continues to be an essential part of the economic thought of the Kuomintang and of its leaders and members who are carrying on the work of government at Wuhan. In reply to other questions the Minister for Foreign Affairs stated that it has been difficult to attempt an earlier settlement of the special economic situation in this region of the Yangtze Valley because the entire attention and energies of the Kuomintang and the Nationalist Government had been concentrated during the past three months on the solution of a profoundly grave party issue. Now that this issue had been solved the Government and the party had been addressing themselves to the immediate settlement of the economic question. The Minister outlined the measures which are being taken to assist the restoration of conditions for the conduct of foreign business and trade and he emphasized the fact that labor had resolved to impose on itself revolutionary discipline in order to carry out these measures of the

Government. A separate statement will be issued describing these measures in detail and such further action as may be necessary to bring about the immediate restoration of trade conditions within Nationalist territory."

Legation informed.

LOCKHART

893.00/8756 : Telegram

The Secretary of State to the Minister in China (MacMurray) ⁹³

[Paraphrase]

WASHINGTON, April 26, 1927—2 p. m.

188. Your No. 473, April 22, 5 p. m.

1. It is the understanding of the Department that Admiral Williams has at his disposal in his discretion for use in Tientsin or Peking 1,500 marines now on the *Henderson* to land at Shanghai about May 1, and 1,500 marines now on the *President Grant* to land in the Philippines at Olongapo about May 3. Thus there will be 3,000 marines available at Peking and Tientsin for protection of American lives and property there, in addition to the 1,300 soldiers and marines who are already there. If it becomes absolutely necessary, there will be available in addition to the above a regiment of approximately 2,000 white troops now held in the Philippines (as stated in Department's 123 of April 4, 3 p. m.)

2. The Government of the United States is not prepared to dispatch a division or more of troops, as suggested by the British Government. And yesterday the Japanese Ambassador confirmed the statement of the Japanese Minister of Foreign Affairs to British Ambassador in Tokyo (see No. 57 from Tokyo to Department, April 18, 4 p. m.⁹⁴) that the Japanese Government was not prepared to send more troops at this time to Peking and Tientsin.

3. In reply to the British Embassy's note (Department's No. 165 to you April 15, 6 p. m.⁹⁴) the Department will inform British Government of its attitude in general toward this question. You are at liberty frankly to give this Government's views to your colleagues in Peking.

4. In regard to third paragraph of your telegram, Department does not understand your statement to effect that withdrawal of all American diplomatic and consular officers from China would be necessitated by withdrawal of the Legation. Department does not see necessity

⁹³ The Minister in China reported in telegram No. 506, Apr. 30, 3 p. m., as follows: "I read to my four interested colleagues yesterday the first three paragraphs of your telegram No. 188, Apr. 26th." (File No. 893.00/8811.)

⁹⁴ Not printed.

for any such action. It would propose that the Legation and consulates in China be maintained at such points where they could remain safely and still continue to have some contact with the situation.

Repeat to Admiral Williams.

KELLOGG

893.00/8785 : Telegram

The Consul at Tientsin (Berger) to the Secretary of State

TIENTSIN, April 26, 1927—5 p. m.

[Received April 26—5:15 p. m.]

Telegraphic press reports from a reliable source indicate that impression has arisen that British are negotiating for return of their Concession area in Tientsin to the Chinese. This is not the case. Negotiations concluded April 22nd were for the purpose of placing the area under joint control of British, Chinese and American. This status can only be assured under present conditions in China by presence in Tientsin of sufficient body of foreign troops to insure non-interference by the Chinese authorities. Withdrawal of all foreign troops from Tientsin at present would insure complete destruction of all foreign trade and interests in the port. Withdrawal of Americans only from Tientsin and North China would make us butt of ridicule of all the world, insure complete destruction of any prestige which Americans now have in the eyes of the Chinese, and in addition would [place?] the United States in the position of shirking her moral responsibility in suppressing the further spread of imperialistic designs of Russian Bolshevism and placing all responsibility there anent upon other powers. Since formation of Tanaka cabinet, Tientsin, Japanese civil and military authorities have shown decided desire to cooperate with British and Americans in protection of our joint interests. Foreign military commanders at Tientsin in conference have decided 25,000 foreign troops sufficient to protect Tientsin and Peking. Japanese state that they have two divisions ready to send to Tientsin when needed. I am convinced that Japanese would move to protect foreign interests in Tientsin immediately American troops [arrived?] here. Japanese appear very wary lest they would again incur opposition of the United States in China on account of alleged imperialistic designs and be made victims of American-directed propaganda on account of her [*their?*] actions in Tientsin. Believed that Japanese will not under any circumstances give up their Concession area in Tientsin and on that account, if for no other reason, the United States should participate in holding of Tientsin in a manner fitting the strength of the American nation in order that if necessary we may checkmate designs of Japan in following settle-

ment. Reports indicate great activity on the part of bandits in the country north and west of Tongshan and Chinwangtao. These bandits are irregular cavalry under the command of General Mu Chun . . . His activities may necessitate closing Pehtaiho for Americans.

BERGER

S93.00/8776 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Extract—Paraphrase]

WASHINGTON, April 27, 1927—1 p. m.

190. Your No. 483, April 26, 10 a. m.⁹⁵

1. Please request Tientsin to repeat to you the telegram it sent to Department April 26, 5 p. m. Department fails to understand the statement in that telegram that the purpose of British negotiations in Tientsin was to put the area under joint control of themselves, the Chinese, and the Americans. This is the first intimation to reach the Department that any plan existed for interesting this Government in controlling the British Concession in Tientsin. You should instruct the American consul at Tientsin that the Government of the United States has no desire to interest itself in this matter.

KELLOGG

S93.00/8802a : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, April 27, 1927—6 p. m.

192. For your information, on April 25 the President, speaking to the United Press at New York regarding American foreign policy, stated in part:

"Our main difficulty here (in China) is the protection of the life and property of our citizens. Our citizens are being concentrated in ports where we can protect them and remove them. It is solely for this purpose that our warships and marines are in that territory.

While this process was going on the unfortunate incident arose at Nanking. One of our citizens was murdered, another was wounded, our consulate was violated, and when the house in which our people had taken refuge was surrounded and they were actually under fire it became necessary for one of our ships, and one of the British ships in the harbor, to lay down a barrage, to drive away the soldiers and the mob who were making the attack and to enable our citizens to reach a place of safety on our ships in the river. We presented with the other powers who had suffered like attacks

⁹⁵ Not printed.

identical notes of protest, to which a reply has been made, which although conciliatory in tone and to a certain degree responsive, leaves the final disposition of the issue a matter for further consideration by our Government."

After referring to the statement of the Secretary of State of January 27,⁹⁹ and the proposal of this Government for excluding the International Settlement at Shanghai from the area of armed conflict, the President stated:

"The friendship of America for China has become proverbial. We feel for her the deepest sympathy in these times of her distress. We have no disposition to do otherwise than to assist and encourage every legitimate aspiration for freedom, for unity, for the cultivation of a national spirit, and the realization of a republican form of government. In the turmoil and strife of the present time we realize fully that forces may be let loose temporarily beyond their power to control, which may do injury to American nationals. It is to guard against that eventuality that our forces are in Chinese waters and to do what China itself would do if peace prevailed. We do not wish to pursue any course of aggression against the Chinese people. We are there to prevent aggression against our people by any of their disorderly elements. Ultimately the turmoil will quiet down and some form of authority will emerge, which will no doubt be prepared to make adequate settlement for any wrongs we have suffered. We shall of course maintain the dignity of our Government and insist upon proper respect being extended to our authority. But our actions will at all times be those of a friend solicitous for the well-being of the Chinese people."

KELLOGG

893.00/8820 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, April 30, 1927—4 p. m.

[Received April 30—10:02 a. m.]

507. Your No. 190, April 27.

1. I have had a conversation with British Minister concerning the matter Berger reported to you in his April 3 [26?], 5 p. m. The conversations at Tientsin recently between Chinese and British delegates in regard to readjusting status of British Concession at Tientsin have had a purely preliminary character. Their object was to prepare joint recommendations for the higher authorities to consider. The British delegates assumed, apparently out of regard for what they believed was a commitment made at the time in 1902 when the area known as the American Concession was included within the British Municipal

⁹⁹ See telegram No. 28, Jan. 25, to the Chargé in China, p. 350.

Extension (see enclosure No. 71, Legation's despatch 522, April 5, 1922),⁹⁷ that if a suitable American citizen willing to serve could be found, the member of the Municipal Council ought to be an American.

2. It was suggested to me by the British Minister that, if this arrangement was unacceptable to my Government, I should secure the elimination of the provision respecting an American councilor. I explained to him that we did not claim any concession in Tientsin and that our preference was to stand aloof from having any connection with the question relating to British Concession [garbled group]. My assumption is that this matter may be considered definitely disposed of.

MACMURRAY

493.11/1295

The Minister in China (MacMurray) to the Secretary of State

No. 1029

PEKING, May 1, 1927.

[Received June 13.]

SIR: I have the honor to inform you that the Legation has received a number of communications from American Consuls and business enterprises in southern and central China, relative to losses sustained as a result of looting by Nationalist troops. Claims for such losses have been taken up with the local authorities through the American Consuls and in particularly flagrant cases the Consul General at Hankow has, by direction of the Legation, made protest to the so-called Nationalist Government. In all such cases of losses through looting by Nationalist troops the Legation has requested to be supplied with full information, but has not made any representations to the Foreign Office at Peking in this relation, pending the receipt of definite instructions from the Department.

⁹⁷ Not printed. The "American Concession" at Tientsin dated from 1869. On June 27, 1896, the United States abandoned all claim to jurisdiction over the area concerned, lying between the British and the later German Concession at Tientsin. Nevertheless a British proposal that this area be incorporated into the jurisdiction of the British Municipal Extension at Tientsin was the object of some discussion in 1901 and 1902 between German, British, and American diplomatic representatives in Peking and consular officials at Tientsin. On March 26, 1902, the American Minister in China agreed to the proposal on the following conditions:

"First. The right of military occupation at any time by the United States forces;

Second. Prior right at all times to moor United States vessels along the water-front;

Third. The right of the United States Government to assume control of the tract after giving twelve months notice of such desire; in which case any outlay on permanent works will be taken into consideration."

These conditions had been accepted, and the sanction of Chinese authorities for the arrangement had been secured, by October 27, 1902. (File No. 893.102 T/60.)

It will be recalled that after the first two revolutions the victors were anxious to gain the favor and support of foreign Powers and agreed to pay claims for losses caused to foreigners by the vanquished, a burden which a strict interpretation of the common practices of international law might not have compelled them to assume, thereby forming a body of precedent as regards China which has often been referred to. There is, of course, a possibility that, if the present imbroglio should resolve itself in the formation by the "Ankuochun" of a stable government and this government should desire to come to a satisfactory understanding with foreign Powers, as did its victorious predecessors, it might prove an advantage to have communications on record here concerning such claims as those mentioned above. I am inclined to believe, however, that under such circumstances the question of whether or not claims had been previously taken up would be of no importance, and that in view of recent Sino-foreign relations it is improbable that any Chinese government which may be formed in the future will be willing to assume obligations other than those clearly placed upon it by international law. Moreover, the presentation of such claims at this time would naturally be irritating to the Peking regime, which, among other reasons because of its limited jurisdiction, we refuse to recognize as the Government of China, and which we would yet be endeavoring to hold responsible for acts of a rival "government" without its jurisdiction. Should the Nationalists, on the other hand, be victorious in the present struggle and set up a government for all or most of China, either at Peking or elsewhere, the fact that claims for damages caused by nationalist troops had been presented to the present Peking regime would in no way aid in a settlement thereof. I have the honor to suggest, therefore, that these claims should not be presented to the Peking regime under present circumstances, but that, pending a solution of the political situation, action should be confined to bringing such pressure as may be possible on the local authorities concerned to come to an equitable arrangement. This would, of course, not affect the present procedure by which Consular Officers first take up such claims informally with the local authorities, and, if no satisfactory settlement can be secured, refer these cases to the Legation and the Department,—if possible, on the prescribed claims form; if not, with an affidavit regarding the attendant circumstances and such other relevant documents as may be obtainable.

There is little hope of securing payment at this time of any of the claims which have been or may be brought against the Chinese authorities, and the practical purpose of presenting claims is in order to make them a matter of record against the time when the formation of a solvent government may render a settlement possible. Presenta-

tion of claims to the local authorities serves the purpose of making this record and permits of investigation by the authorities with a view to verifying the facts in the premises while information about such facts is still ascertainable. No further useful purpose would appear to be served by now presenting claims to any unrecognized "government" pretending to function in China for acts committed in areas without its jurisdiction.

I have [etc.]

J. V. A. MACMURRAY

893.00/8927 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, May 18, 1927—11 a. m.

[Received May 18—2:10 a. m.]

569. 1. A statement has been jointly signed and submitted to their respective heads of delegations by the military attachés of the American, French, Italian, Japanese, and British Legations. The following is the substance:

We have unanimously decided that in the event that the powers decide to strengthen their contingents in North China that consideration should be given to the following circumstances as constituting emergencies requiring such reinforcements: (1) A withdrawal from any part of the Lunghai Railway by the Northern forces; (2) any large-scale disaffection or decisive defeat of the Northern forces south of the Lunghai Railway; (3) any *coup d'état* and/or insurrection or invasion north of the Lunghai Railway in case of an advance against the Northern Government by the Southerners (Nationalists).

2. Above is being telegraphed to commander in chief.

MACMURRAY

893.00 Nanking/158 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 21, 1927—3 p. m.

[Received May 21—6:43 a. m.]

576. With reference to Nanking's May 12, 9 p. m. to the Department,⁹⁸ following has been received from Davis:

"May 13, 6 p. m. Uniformed Nationalist soldiers have fired upon passing American naval vessels from the Nanking waterfront 3 times in the last 48 hours with machine guns and rifles. There were many hits. As 2 ensigns were displayed and distance was short this must have been deliberate.

⁹⁸ Not found in Department files.

I suggest that you lodge very strong protest both against this and frequent similar firing between here and Shanghai."

I am replying:

"May 21, 3 p. m. Your telegram May 13, 6 p. m. In view of the failure of either of factions claiming to be the Nationalist Government of China to accept responsibility for the Nanking incident I question advisability of continuing policy of filing protests without intention to back them up. I believe that it would be preferable to leave such matters as your telegram refers to to be dealt with by our naval authorities under existing instructions."

MACMURRAY

893.00/8982 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, May 28, 1927—10 a. m.

[Received May 28—7:52 a. m.]

United States Ship *Pigeon* fired upon with machine guns and shrapnel by Southern troops while passing Chenglingki above Hankow yesterday afternoon en route to Ichang to evacuate Standard Oil Company stocks. *Pigeon* returned fire with machine guns and 14 rounds of shrapnel shells. Engagement lasted approximately fifteen minutes; no casualties on *Pigeon* although vessel struck number of times by machine-gun bullets.

Destroyer *Edsall* left Hankow this morning to escort United States Ship *Penguin* by Chenglingki late today or tomorrow.

Legation informed.

LOCKHART

893.00/9016 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, May 28, 1927—4 p. m.

236. The Japanese Ambassador called this morning and read the following statement:

"In the recent disturbance of South China, particularly on the occasion of the unfortunate incidents which transpired in Hankow, Nanking and elsewhere, serious injuries have been inflicted upon the lives and property of the Japanese residents in these localities, and in some cases violences prejudicial to Japan's honor have been committed, owing to the insufficiency of means of protection provided by the Chinese authorities. In the imminence, therefore, of a military situation being developed in North China, a recurrence of such unfortunate incidents is feared. In fact, at the present moment when the Chinese civil strife appears to be extended toward Tsinan, the safety of the lives and property of Japanese residents there is

greatly apprehended. In the town of Tsinan there are 2,000 Japanese people and, it being situated in the interior far away from the coast, it is absolutely impossible to afford them protection by means of naval forces like in the case of port cities along the Yangtse. In these circumstances, the Japanese Government has been forced to adopt the measure of protecting the lives and property of Japanese residents there by land forces in order to prevent the repetition of unfortunate events. Considerable time, however, is required to send troops there for such a purpose, and, in view of the constantly changing military situation, it has been decided to despatch immediately about 2,000 troops from Manchuria to Tsingtao as a precaution. The despatch of such troops is nothing but an emergency measure forced upon the Japanese Government in self defense and in order to insure the safety of Japanese residents. No unfriendly design whatever is intended toward China and its people, nor is it intended to interfere with or impair the military operation of either the Southern or Northern armies of China. In adopting this measure of despatching troops in self defense, the Japanese Government has no intention whatever of keeping them there long. Immediately the fear of menace against the safety of the Japanese people in that locality is removed, the whole contingent of these troops will be withdrawn without delay."

KELLOGG

S93.00/9020 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, May 31, 1927—6 p. m.

[Received 10:45 p. m.]

601. Department's 236, May 28, 4 p. m., and telegram No. 26 [81], Tokyo to Department, May 28, 1 p. m.⁹⁹

1. Yesterday Japanese Minister, in substantially the same terms as communication from Japanese Ambassador to you, informed his French, Italian, and British colleagues and me that his Government was dispatching 2,000 troops to Tsingtau and further that his Government intended to send approximately the same number of troops to the Peking-Tientsin area if the situation seemed to require it. He intimated in reply to inquiries that an occasion for this would be constituted by the Southern forces' cutting the Lunghai Railroad line.

2. The British Counselor—who has in the absence of the British Minister been . . . insisting that the British could not be counted on to remain and to bear any part in defending Peking (or Tientsin) unless the Japanese contributed sufficiently to make up for this area a total force of 36,000—has announced to us that the views of his

⁹⁹ Latter telegram not printed.

Government have been altered in view of the new position taken now by the Japanese and that his Government no longer has the abandonment of Peking by its Legation under consideration and would participate if necessary in defending this area with such forces as his Government could make available.

3. No other Legations contemplate leaving Peking.

4. The military attaché of this Legation has ascertained from his respective colleagues that the following approximate enlargements of strength will be accomplished within a fortnight: Italians at Peking increased to 246 from 146; French at Tientsin to 2,400 from 1,850; Japanese at Peking to 800 from 307 and at Tientsin to 2,500, plus a brigade coast guard, artillery, and aviation unit, from 1,000; British at Peking to 350 from 167 and at Tientsin to 1,250 from 750; and further reinforcements up to 4,000 may be recommended by General Duncan¹ who is coming to the North to observe the situation.

5. Although the number of troops involved is comparatively small, it seems to me that the Japanese Government's long delayed avowal of its determination to take military measures of a precautionary character to protect Japanese interests in North China puts a wholly new light upon the various questions which relate to the situation of Legations and foreign interests in this area. This decision has the effect of serving notice on all the Chinese factions concerned that the Government of Japan is prepared to take measures against any menacing condition of affairs in North China.

6. Hitherto I have found myself in a state of great perplexity over determining the degree of danger that would compel or justify my assuming the very grave responsibilities incident to a removal of this Legation from Peking pursuant to Department's No. 146 of April 12th. This has been my difficulty: whereas to abandon the American Legation because of an anticipated but not yet apparent danger would be an obviously ridiculous sacrifice of our interests and prestige, there was a probability that it would be too late to carry out the removal at the moment when the danger did become manifest. My feeling now is that the attitude the Japanese have taken so far insures us against any actual danger that with good conscience I can assume that we can dismiss from consideration the question of the Legation's removal so as to avoid any repetition of the Boxer siege.

7. Perhaps the Legation Quarter may be the object of mob violence during the period of an interregnum, or, conceivably, may be attacked in desultory fashion by either outgoing Northerners or incoming Southerners. The Quarter may be subject perhaps to some days of inconvenience and to a certain degree of hazard. But I think that

¹ Maj. Gen. John Duncan, commanding the British Shanghai Defense Force.

as a practical fact it is now out of the question, since the Japanese have engaged themselves, that any serious organized military operation should develop against the Legations such as I interpret was contemplated by Department's telegram April 12th, 6 p. m. Even if the Guards were compelled by mob violence to fire to protect the Legations I do not believe either the Southerners or the Northerners would undertake in retaliation military action that would be tantamount to declaring war, which the Japanese have shown themselves forearmed against. Therefore I do not see any occasion unless some radical change in the situation should develop for action upon the instruction of April 12, 6 p. m.

8. Though the question of removing Legation is not an imminent one, I feel however that the breaking of the Lunghai Railway line (after the line had passed over the emergency as defined by military attachés in their joint recommendation—see my No. 569 of May 18th, 11 a. m.) renders advisable that in order to afford protection to the lives and property of Americans in North China we should dispatch the 1,700 marines now available in Shanghai to Tientsin (see commander in chief's telegram 0029-2000 to me repeated to Navy Department for information). In my opinion this would conclusively assure that there would arise no occasion for relief measures. I am requesting [?] the commander in chief accordingly to that effect.

9. Repeat[ed] to Tientsin, information of General Castner, to Shanghai, information of commander in chief, and to Tokyo.

MACMURRAY

893.00/9289

*The American Legation to the Chinese Ministry of Foreign Affairs*³

No. 452

The American Legation presents its compliments to the Ministry of Foreign Affairs, and has the honor to inform the Ministry that a reinforcement to the American forces maintained at Tientsin under the authorization of the Boxer Protocol, consisting of one regiment of Marines, has been despatched to Tientsin and will arrive at Taku Bar on or about June 4, 1927.

These reinforcements have been despatched to Tientsin solely for the purpose of protecting American lives and property, and although the American Government has every expectation that in the event of civil warfare in North China, complete protection will be given American lives and property, recent events in South China make it impera-

³ Copy transmitted to the Department by the Minister in China as an enclosure to his despatch No. 1093, June 16; received Aug. 8.

tive that the American Government take the necessary steps to provide against the repetition of any such incidents.

These additional forces will be withdrawn as soon as it is demonstrated that their presence is no longer required.

PEKING, June 2, 1927.

893.00/9027 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 2, 1927—11 a. m.

[Received June 2—9:30 a. m.]

608. Following sent American consul general, Shanghai:

"June 2, noon.

1. Please see C. C. Wu⁴ and for his information and that of General Chiang Kai-shek, tell him that the reenforcement of American Guards in North China is for the purpose of protection of American life. The American Government has every expectation that, in the event of civil warfare in North China, complete protection will be given American life and property. The Nanking outrages, however, and the attitude adopted toward foreigners in the Yangtze Valley region, and attacks on them there, make it imperative that the American Government take the necessary steps to provide against the possibility of repetition of any such incidents. The reenforcements will be withdrawn at once as soon as it is demonstrated that their presence is no longer required.

2. Please give copy to commander in chief."

A statement of this general tenor has been given to the local press omitting, of course, any reference to communications with C. C. Wu.

MACMURRAY

893.00/9020 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, June 3, 1927—7 p. m.

243. Please transmit to Admiral Williams the following message and request him to communicate his reply through you.

"Referring to your telegram to American Minister, No. 0029-2000. Please explain what you mean by British plan to determine conditions for possible evacuation, which I do not understand.

From American Minister's telegram to Department, No. 601, May 31, 6 p. m., I judge that British have altered their plan regarding removal of their Legation from Peking. As advised by you in your

⁴ Minister of Foreign Affairs in Nationalist Government at Nanking from May 10, 1927.

No. 0002-2345 to Navy Department and in your No. 0007-2305 to MacMurray in April, the Government of the United States is still of the opinion that its Legation should be removed from Peking if there should be serious threat to its safety and would desire the Legation removed early enough to avoid any accident either through being caught in Peking or through attack en route. In your 0029-2000 I note also a statement that you are not in favor of sending to Peking more marines than are now there and that unless you are ordered to send more you have no intention of doing so. The Department desires to have your opinions on whether the military situation is that this Government should remove its Legation immediately and whether the Legation should be removed to Tientsin or to Shanghai. This Government is anxious to avoid having the Legation Guard come into conflict with either the invading or the retreating forces."

KELLOGG

893.00/9035 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 3, 1927—9 p. m.

[Received June 3—2:50 p. m.]

615. My despatch No. 1014, April 22, 1927.⁷

1. With reference to the circular letter April 14th addressed by British Minister to his nationals resident in Peking, British Legation has now further circularized them privately and confidentially to the following effect, drawing attention to the fact that the first and second phases referred to in the circular of April 14th have now been reached: Subparagraph 1. That these developments have led to a review of the general situation as a result of which the following measures are now strictly urged on British subjects in Peking. Subparagraph 2. Rapid successes of Nationalist forces indicate prospect of change of regime in Peking with possibility of serious disturbances; impossible to say when this change may be expected, but indications point to its occurring (and consequently to the means of communication between Tientsin and Peking being interrupted) at an earlier date than previously anticipated; therefore it is strongly advised that British subjects living outside the Legation Quarter should immediately make arrangements to send away their women and children, and it is suggested that those who intended to go to seaside resorts for the summer should antedate their departure and proceed at once. Subparagraph 3. As regards phase 3, referred to in circular of April 14th, it has been decided to modify the advice contained therein as follows: It is not considered essential that British subjects living inside the Legation Quarter should withdraw from

⁷ Not printed.

Peking. Furthermore, male British subjects living in the city who feel it incumbent on them to remain to look after business interests may use their discretion in the matter, on the understanding that they remain on their own responsibility; in that event, however, they should make their arrangements forthwith for withdrawing into the Legation Quarter at short notice.

2. Referring to paragraph 7 of my 601, May 31, 6 p. m. I have under consideration suggesting to American citizens living outside the Legation Quarter to withdraw from Peking substantially in the manner described in the British circular outlined above. I shall keep the Department informed of any action in this respect.

MACMURRAY

893.00/8020 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, June 3, 1927—8 p. m.

244. Your telegrams No. 601 of May 31, 6 p. m., and No. 615 of June 3, 9 p. m. My cable No. 243 of June 3, answers certain questions in your No. 601. In the military attaché's report on the number of troops being sent by each country to Peking and to Tientsin I notice that there is no material difference from the number which we will have there when our marines arrive at Tientsin. The matter of any temporary removal of our Legation has been considered here very carefully. I fully realize the embarrassment of such removal. We are all very anxious that there shall be avoided any conflict in Peking between the mob of outgoing and incoming soldiers which might cause bloodshed and cause further agitation in China. Our desire is to remove any inducement to such conflicts as far as possible. I do not understand that any obligation is laid upon us under the Boxer protocol to maintain forces either at Peking or Tientsin. We are given a right to do that. But if we should withdraw, of course we would notify the other powers in good faith. The Department desires all possible information regarding when we would be justified in doing this, and also any comment you have, of course, regarding the effect of such withdrawal upon the Chinese. Admiral Williams was authorized to dispatch the marines to Tientsin and his action has the approval of the Government. I think you should have the removal of the Legation in mind and make preparations in advance as far as you can.

Your warning Americans along the line taken by the British circular is approved except that I do not see, in view of the probable

evacuation of the Legation, how we can advise American citizens living inside the Legation to remain or advise others to come inside the Legation. Advise us on this subject fully.

KELLOGG

893.00/9289

*The Chinese Ministry of Foreign Affairs to the American Legation*⁸

[Translation]

The Ministry of Foreign Affairs presents its compliments to the American Legation, and has the honor to acknowledge the receipt of the Legation's memorandum (No. 452, of June 2, 1927) stating:

"... Reenforcements to the American forces maintained at Tientsin under the authorization of the Boxer Protocol, consisting of one regiment of Marines have been despatched to Tientsin....

"These reenforcements have been despatched ... solely for the purpose of protecting American lives and property and ... in the event of civil warfare in North China ... to provide against the repetition of any such incidents as recent events in South China.

"These ... forces will be withdrawn as soon as it is demonstrated that their presence is no longer required."

The Ministry of Foreign Affairs has the honor to observe that, while the International Protocol of 1901 permits the signatory Powers to order up troops adequate to keep open communications between Peking and the sea, nevertheless, the number sufficient to maintain communications should be taken as the limit and these should not be unlimitedly reenforced. Furthermore, North China has recently been exceedingly tranquil and there has not been the slightest obstruction of open communications between the Metropolis and the sea. As to the lives and property of foreign residents, this Government has hitherto been exceedingly careful to accord protection, and it is certainly unnecessary to order up reenforcements. Moreover, conditions in North and South differ; how, then, can events in the South furnish an excuse for ordering up troops?

A few years ago at the Washington conference the plenipotentiary representatives of participating Powers, with the exception of China, passed a resolution respecting China's sovereignty.⁹ This recent ordering of additional troops to North China by your Government is not in accordance with the spirit of the Washington conference resolution. For these reasons the Ministry of Foreign Affairs desires to file a protest, and therefore, has the honor to indite this memorandum

⁸ Copy transmitted to the Department by the Minister in China as an enclosure in his despatch No. 1098, June 16; received Aug. 8.

⁹ The reference is apparently to resolution VII, *Foreign Relations*, 1922, vol. I, p. 292.

for the information of the American Minister, requesting that he will be so good as to inform his Government of the contents without delay, that his Government may give its most earnest consideration and [to the] withdrawal of these reenforcements at an early date, in order that the present intimacy and harmony of the friendly relations between the two countries may not be adversely affected and in order to accord with the original intent of the International Protocol of 1901. This is the Ministry's most earnest hope.

MINISTRY OF FOREIGN AFFAIRS

PEKING, June 7, 1927.

893.00/9062 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, June 7, 1927—6 p. m.

[Received June 7—3:15 p. m.]

623. Department's No. 243, June 3, 7 p. m.

1. Reply from Admiral Williams follows:

"In my 0029-2000 I referred to the British plan contained in the circular the British Minister issued April 14 to British subjects in Peking. I suggested that plan because it appeared to me to be a sound one and because my feeling was that if the British did leave Peking the conditions certainly would be such that Americans ought not to remain.

I have received since that time a copy of telegram No. 601, May 31, 6 p. m., sent to the Secretary of State by the American Minister. I interpret the fifth and sixth paragraphs of this telegram to mean that Minister MacMurray considers that in effect the Japanese Government has underwritten the safety of Legations in Peking. Whether the American Legation should or should not be removed then becomes a political question to which, I feel, I am not in a position to give an answer.

My opinion is that the decision as to when the American Legation should be removed, if it is to be removed from Peking, must rest necessarily with the American Minister who is there. I beg to state in answer to the Department's question that the military situation as presented in this morning's press is in my opinion a very threatening one. It would seem that the Japanese soon will be compelled to take definite action. In the event that the Legation is to be removed from Peking, I would favor transferring it to Tientsin at first, there to await a possible future movement to Shanghai if necessary."

2. I have requested Admiral Williams to elaborate his comments in regard to the report of a threatening military situation and also in regard to the probability of action by the Japanese, which are not entirely clear to me.

MACMURRAY

893.00/9070 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, June 8, 1927—4 p. m.

[Received 7:13 p. m.]

626. Your No. 243 and No. 244 of June 3.

1. The reply of the commander in chief to telegram No. 243 was forwarded in my No. 623, June 7, 6 p. m.

2. I have sought to keep in mind, in dealing with question of possibly withdrawing Legation from Peking, not only the responsibility with which your telegram 146 of April 12 charged me in respect to determination of a state of facts, but in addition the peculiar difficulties confronting you because of the trend of opinion at home regarding China. As I understand it your problem is to give American lives and property in China the fullest protection without laying open our Government to the charge of taking aggressive action in general against the Chinese people or perhaps in particular against the so-called Nationalist movement.

3. Concerning the effect the withdrawing of our Legation from Peking would have upon the Chinese, my conviction is that such a step would have a stunning effect throughout China upon the generality of the Chinese people, who would regard it as a calamity that in face of a negligible amount of danger the Government of the United States should at the most critical moment of their modern history withdraw American representation from the crucial point of international relationships. The Chinese could not but view our action with feelings of disillusionment and even of suspicion perhaps that with deliberate purpose we had left the field to the Japanese and the British who have more realistic methods and larger interests. From a Chinese point of view it would appear that we had renounced our concern or interest in the readjustments which might be expected to follow after the Nationalists take the capital. The Chinese would recognize that our value would be heavily discounted as a factor in China's international situation if we were to withdraw now when there is no reasonable apprehension of danger here to the lives and property of foreigners and when others, the British and Japanese in particular, are choosing to remain, and thereby negative our influence in support of our own principles of the integrity of China and the open door with all they imply, and for years to come debar us from any effective participation in questions of international import concerning China.

4. In compliance with your wishes I am taking steps of a preliminary character with a view to possible removal of this Legation; but

since any visible measures would confirm reports already circulating and would in large measure make operative at once the unfavorable consequences attending actual removal, I am not taking any overt action to that end until either some unexpected development has occurred which would warrant changing the present estimate of the facts or else until you may have instructed me to remove the Legation in any case.

MACMURRAY

893.00/9065 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 8, 1927—5 p. m.

[Received June 8—10:04 a. m.]

627. 1. There was received from Wai Chiao Pu yesterday evening, what I construe to be a merely *pro forma* protest against reinforcement by marines of our forces at Tientsin¹¹ grounded upon the contention that the Boxer protocol entitles us to maintain only such forces as are actually necessary to keep open communications with the sea.

2. I welcome this protest as reaffirming the validity of the protocol even while setting up wholly untenable and actually unmeant interpretation of it. And while avoiding comment that it has been estimated that 50,000 men would be necessary for the purpose, I am replying¹² that in the judgment of the American military and naval authorities reinforcements in question are, under existing circumstances, required for carrying out of the purposes set forth in the protocol.

MACMURRAY

893.00/9289

*The American Legation to the Chinese Ministry of Foreign Affairs*¹³

No. 459

The American Legation presents its compliments to the Ministry of Foreign Affairs and has the honor to acknowledge receipt of the Ministry's memorandum of June 7th, 1927, concerning the despatch of American reinforcements to Tientsin.

It is noted that the Ministry of Foreign Affairs observes that while the International Protocol of 1901 permits the signatory Powers to order up troops adequate to keep open communications between

¹¹ *Ante*, p. 130.

¹² *Infra*.

¹³ Copy transmitted to the Department by the Minister in China as an enclosure in his despatch No. 1093, June 16; received Aug. 8.

Peking and the sea, nevertheless, the number sufficient to maintain communications should be taken as the limit and these should not be unlimitedly reenforced. It is also noted that the Ministry of Foreign Affairs requests that the contents of the memorandum under acknowledgment be transmitted to the American Government in order that the most earnest consideration may be given to the withdrawal of these reinforcements at an early date.

Without discussing this question of the interpretation of the Protocol, the American Legation has the honor to inform the Ministry of Foreign Affairs that in the judgement of the American military and naval authorities the reinforcements in question are, under existing circumstances, within the limits of the number required for the carrying out of the purposes set forth in the International Protocol of 1901.

In this connection the American Legation again has the honor to inform the Ministry of Foreign Affairs that these reinforcements have been despatched to Tientsin solely for the purpose of protecting American lives and property, and that such additional forces will be withdrawn as soon as it is demonstrated that their presence is no longer required.

PEKING, *June 14, 1927.*

893.00/9119 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, *June 18, 1927—8 p. m.*

[Received June 18—7:23 p. m.]

659. Department's No. 249, June 7; my No. 630, June 9.¹⁴

1. After conferring with Brigadier General Smedley Butler, U. S. M. C., and General Castner, U. S. A., I am sending by letter to Admiral Williams, commander in chief of the United States Asiatic Fleet, my views on the mission of the marine force in North China with especial reference to the considerations set forth in your telegram No. 244 of June 3, 1927. In connection with the fulfilment of this mission I am recommending, in the letter above mentioned, the dispatch to Tientsin of the rest of the marines which Admiral Williams informed me are available for service in this area. (See in this connection the first paragraph of your telegram No. 188, April 28 [26], 1927.) The following is a summary of my communication to Admiral Williams above referred to:

2. As there was no immediate need on June 2, 1927, at Tientsin for the entire marine force which was available at Shanghai and

¹⁴ Neither printed.

Olongapo, it seemed preferable from the viewpoint of expediency not to have the forces dispatched to Tientsin simultaneously, although it was felt at the time that it most probably would be necessary to have the second contingent of marines follow the first. In view of the fact that the arrival of reinforcements in North China has been published and explained in the case of the first contingent, no further publicity or explanation will be necessary in case further reinforcements are sent.

General Butler and I are in entire agreement regarding the mission of the marine force in North China. We agree that while it had been obviously wise to take the position that the force was coming to North China as a reinforcement to the American troops which are maintained here in accordance with the provisions of the Boxer protocol, yet for purposes of administration and in dealing with questions of international cooperation, it is highly desirable to keep the marine force entirely separate from the Fifteenth Infantry, which represents our share of the international force whose primary mission is to keep open the communications from Peking to the sea. Both General Butler and I feel that the sole mission of the American marines who have been sent to China (as the President has repeatedly and clearly declared) is to protect American life and property against any aggressive action on the part of the Chinese but to take no aggressive steps against them beyond the necessities of that primary responsibility above mentioned. My understanding is that the discretion to determine how the marines shall be employed to that end has been entrusted to the commander in chief of the United States Asiatic Fleet in collaboration with the American Minister.

In case the situation at Tientsin should develop in a manner similar to that at Shanghai it might become desirable to have close coordination with the other powers at Tientsin; but, according to my judgment, such coordination would be incidental and subordinate to the accomplishment by the United States marine force in China of their mission to protect American life and property, which is a duty apart from any obligations incurred under the Boxer protocol. I assume that General Castner's and General Butler's commands would, of course, give each other all necessary support should the situation require it, but this readiness to be of mutual assistance should not, in my opinion, lead to any confusion regarding the separate and distinct missions of the two American forces at Tientsin.

In connection with the protection of Americans in the Peking-Tientsin area, I consider it desirable that our marine force, while avoiding any involvement beyond such incidental cooperation with other powers as may be necessary in the nature of the case, should not participate in any program (such as we have some reason to

believe certain of our associates of other nationalities desire to put forward) looking toward the reassertion in their entirety of the foreign rights acquired under the Boxer protocol and certain other arrangements (identical notes of July 15, 1902¹⁵) which would involve an attempt to exclude Chinese-armed forces entirely from the region of Tientsin and to maintain open communication between Tientsin and Peking regardless of the estimated inadequacy of the military forces now available for that purpose. General Butler concurred. (In my opinion this policy should likewise apply to General Castner's command on the same set of facts.)

As I have stated in my recent telegrams to the Department, I am entirely of the opinion up to the present that the danger to be anticipated from continuing to maintain the Legation at Peking is extremely slight and that the withdrawal of the Legation would in the circumstances be most unfortunate, if not indeed disastrous, to American interests. I feel that at least under present circumstances the protection of American life and property in the neighborhood of Peking and Tientsin would be adequately provided for whether the Legation remains or is withdrawn if a base from Tientsin to the sea were to be assured as against any contingency reasonably to be anticipated.

General Butler recommends as the most practicable and dependable means to that end that the Pei Ho should be kept open between Tientsin and the sea, which he believes can be rendered entirely feasible by placing a strong marine force at Tangku and at Tientsin. Should the commander in chief approve this plan, which, being a military matter, is for him to pass upon, it is requested that the 1,300 marines which were recently brought to Shanghai from Olongapo, along with the aviation units, should be sent to Tientsin.

Since General Butler would doubtless station a part of this contingent at Tangku, this would permit us to have an increased force in this area ready for any emergency without any apprehension of its being an unfortunately conspicuous addition to the American forces at Tientsin. Furthermore, according to information which has recently been received, by the time of the arrival of this second regiment of American marines, the Japanese, French, and British forces at Tientsin would also have been correspondingly increased.

The full text of my communication to the commander in chief is being sent to the Department in the next pouch.¹⁶

MACMURRAY

¹⁵ See despatch No. 1046, July 15, from Mr. Conger to Mr. Hay, *Foreign Relations*, 1902, p. 198.

¹⁶ Not printed.

893.00/9119

*The Secretary of State to President Coolidge*¹⁷

WASHINGTON, June 21, 1927.

MY DEAR MR. PRESIDENT: We have had little important news from China of late. Yesterday afternoon a cable came in from MacMurray which I think you should have but I hardly think it is necessary to telegraph it to you. I enclose a paraphrase of it.¹⁸ It indicates that Mr. MacMurray is considering the matter along the lines of our previous instructions and generally, I should say practically, in conformity with Admiral Williams' advice heretofore given us.

At the bottom of page three and the top of page four, you will notice that he advises that our forces should not cooperate in reasserting the foreign rights acquired under the Boxer Protocol and refers to the identic notes of July 15, 1902. These rights have long been in abeyance and have not been exercised by the Powers. When the Rebellion was over, the Powers had control of and governed Tientsin and Peking and also controlled the railroad. These were military governments. When the government of Tientsin was turned back to the Chinese, it was stipulated among other things that there should be no Chinese soldiers between six and two-third English miles of the city of Tientsin or of two miles on either side of the railroad. As a matter of fact, this right has not been exercised for some time and apparently from Mr. MacMurray's note the Powers have been considering the subject of reasserting these rights. I see no object in this and agree with Mr. MacMurray that we should not participate in any such action.

You will also notice on page four that Mr. MacMurray feels that the danger to the legations at Peking is extremely slight. I do not know whether General Butler agrees with this recommendation or not but I rather think he does because he advises that the most practical means for maintaining the safety of the legations is to keep the river Peiho open from Tientsin to the sea, a distance of somewhere between forty and fifty miles. We have heretofore insisted that this River must be kept open and last year we insisted that the Chinese must cease blockading the River.

I will telegraph you any important developments in relation to China.

Faithfully yours,

FRANK B. KELLOGG

¹⁷ President Coolidge was at the summer Executive Offices in Rapid City, S. Dak.

¹⁸ Telegram No. 659, June 18, 8 p. m., *supra*. This telegram which was received Saturday evening, June 18, was evidently not circulated in the Department until Monday, June 20.

893.00/9141½

President Coolidge to the Secretary of State

RAPID CITY, S. DAK., June 23, 1927.

[Received June 27.]

MY DEAR MR. SECRETARY: I have your letter, together with the substance of the recent dispatch from Minister MacMurray. I approve the suggestions made by the Minister and referred to in your own letter, subject of course to your judgment on them.

Very truly yours,

CALVIN COOLIDGE

893.00/9134 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 25, 1927—noon.

[Received June 25—6:37 a. m.]

671. Legation's 669, June 24, 11 a. m.¹⁹

1. Following from American consul at Foochow:

"June 24, 4 p. m. The situation is becoming threatening. An anti-Japanese and anti-British demonstration which had been prevented yesterday by a display of force by the Chinese marines is to be held tomorrow night and it is rumored it is intended to make an attack on the Japanese consul general. Under these circumstances I beg to request that the U. S. S. *Asheville* now in Amoy be sent to Foochow."

2. Repeated to commander in chief for information and consideration with statement expressing my approval of request for American war vessel at Foochow.

MACMURRAY

493.11/1295

The Secretary of State to the Minister in China (MacMurray)

No. 575

WASHINGTON, June 27, 1927.

SIR: The Department has received your despatch No. 1029 of May 1, 1927, in regard to claims on account of losses sustained by American citizens in China at the hands of Nationalist soldiers.

The Department concurs in your opinion that it would be unwise to present claims to the Peking Administration at this time for losses incurred by American citizens without its jurisdiction. The Department believes that you may appropriately follow the course of proce-

¹⁹ Not printed.

dures outlined on page three of your despatch and endeavor to obtain suitable indemnity from the local authorities in individual cases.

I am [etc.]

For the Secretary of State:

ROBERT E. OLDS

393.1163/183 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 26, 1927—9 p. m.

[Received July 26—8:40 p. m.]

758. 1. Rector of the American Catholic University of Peking has addressed me with reference to the attitude of the American Government toward the protection of property rights in China. He states that he is confronted with the contention that proved [*sic*] that property which the university has acquired or might acquire in the future may very likely be confiscated by the Chinese and that in this event the American Government would not intervene in any effective way and much less would it insist upon any adequate indemnification. He further states that as long as any suspicion exists that the American Government is no longer prepared to vindicate American property rights in China it will be difficult to persuade the American Benedictines to risk larger sums in developing work of the university.

2. Since the foregoing states a problem which will have to be faced generally by American mission organizations in China I shall be glad to have as definite a statement of the Department's position with regard thereto as it may be feasible to make at the present time.

MACMURRAY

393.1163/183 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 28, 1927—4 p. m.

298. Your 758, July 26, 9 p. m. There has been, as you know, no change in the policy of the United States in relation to the protection of lives and property of American citizens in China or in any other country. You are aware that this Government has gone as far as possible in the protection of American lives in China and has only urged the withdrawal of American citizens from places where it was impossible or not practical to give or bring about adequate protection. Where it has been practical to do so necessary military protection has been extended and will be extended to American property rights. It is impossible, of course, and entirely impractic-

cal for the United States to have sufficient forces in China to protect property at every place and we cannot assure American citizens that their business will be continued and completely protected under our armed forces. It is also quite impractical under present conditions in China to enforce all our treaty rights with military and naval forces, nor does our policy contemplate action of that nature. I am not aware that the United States has any different policy in this regard than other foreign countries or has extended less protection or made any announcement that it would not extend all feasible protection to American missionaries, universities or others having business or property in China. Department feels you are perfectly familiar with the policy of the United States towards the diplomatic and military protection of lives and property of American citizens and can explain that attitude to the American Catholic University or any other owners of property in China. It is evident that we cannot give any assurances which could be construed as guaranteeing complete immunity in the existing conditions for property rights now held or for future investments. It may well be that ultimately we shall be unable to insure adequate protection for them and that claims will have to be presented covering damages and restitution.

KELLOGG

393.1164 St. Joseph's/-

The Secretary of State to the Minister in China (MacMurray)

No. 603

WASHINGTON, July 28, 1927.

SIR: The Department acknowledges the receipt of your despatch No. 989 of April 15, 1927,²⁰ in which the question is raised as to whether American consular officers in China should or should not invariably file with the Chinese authorities protests against the invasion of the property rights of American persons or organizations, irrespective of the desires in this regard of the persons or organizations affected.

The Department considers that diplomatic intervention on behalf of American interests as a rule has two objects, the one a specific object connected with the particular injury that may have necessitated intervention, the other the general object of bringing about the security and welfare of all American citizens and their legitimate interests in the region in question.

It is conceivable that individual cases may arise in which, in the opinion of the person affected, the latter's rights and interests may be served more effectively without the lodging of an official protest

²⁰ Not printed.

by an American consular official. Since the specific object in each case is to promote the welfare of the injured party, his opinion in the matter should be asked and if the American consular officer is convinced that it would be more expedient for this purpose to follow some course other than the usual one of making an official protest, the protest may be withheld.

The Department must, however, reserve full liberty in deciding upon what measures are practicable and best calculated to protect the rights and interests of American citizens in general. The measure that is commonly taken following an injury to an American citizen is the filing of an official protest by an officer of this Government. The propriety of such a protest when well founded is not open to question and the practice is so usual that the failure to follow it in one instance may result in creating the impression that the rights that have been violated have been abandoned on behalf of other American citizens. Such an impression would certainly result in detriment to the interests of American citizens in general.

Unless, therefore, the Consul is convinced that some other course would result in greater actual benefit to the injured party he should file an official protest whenever he learns of the violation of the property rights of an American citizen. If the latter is opposed in principle to invoking the diplomatic intervention of this Government and informs the Consul to that effect, the protest should be so worded as to indicate clearly that it is not filed at the instance of the injured party, himself, but on the initiative of the Consul, acting on behalf of the general rights possessed by American citizens. No indemnification should be sought for the person in interest except at his request.

I am [etc.]

For the Secretary of State:

W. R. CASTLE, Jr.

893.00/9402 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 8, 1927—4 p. m.

[Received September 8—10:15 a. m.]

862. [Paraphrase.] There follows in translation a note from Wang Yin-tai,²¹ which his secretary, Wei, handed to me September 6th with the request that it be transmitted to you with informal comment that this action of the Ministry of Foreign Affairs was in large measure impelled by withdrawal of Japanese troops from Shantung

²¹ Minister for Foreign Affairs in the Peking Government.

and by its desire that the United States should not suffer invidious comparison. [End paraphrase.]

"The Ministry of Foreign Affairs presents its compliments to the American Legation and has the honor to recall that in connection with the reinforcement of American forces in Tientsin a memorandum from the Legation was received on June 2nd²² and that the Ministry at once filed a protest.²³ Subsequently the Ministry had the honor to receive the Legation's memorandum of June 14th²⁴ stating 'the American Legation again has the honor to inform the Ministry of Foreign Office [*Affairs*] that these reinforcements have been despatched [to] Tientsin solely for the purpose of protecting American lives and property, and that such additional forces will be withdrawn as soon as it is demonstrated that their presence is no longer required'. The Ministry has the honor to observe that all of North China enjoys its customary tranquillity and that the Central Government has always to the utmost of its ability extended protection to foreign lives and property. There certainly exist no grounds for apprehension of the occurrence of unexpected danger in the region about Tientsin and there is really no necessity for reinforcements to troops there. Furthermore the Chinese people are extremely suspicious in this connection and with the passage of time it is feared that misunderstandings might arise.

The Ministry of Foreign Office has the honor to express the hope that the American Legation will, in accordance with the Ministry's memorandum of June 7th, effect the withdrawal at an early date of the American reinforcements at Tientsin in order to maintain the friendly relations hitherto existing. The Ministry has also the honor to request an early reply and will be most grateful for the Legation's consideration."

2. I reminded Wei of treaty status of American reinforcements in Tientsin and position of the Japanese troops in Shantung and remarked that we must be sole judge of what constituted sufficient force under the protocol of 1901; that as always we were most anxious to keep this force at minimum consonant with actual needs and to diminish present number at earliest moment practicable. Wei readily acknowledged correctness of this position; that Shantung and Tientsin status not really comparable. I said further that I assumed identic notes were being sent to other powers having reinforcements in Tientsin area. Wei seemed somewhat embarrassed but replied that so far as he was aware ours was only note of its kind. I expressed surprise at this, the more so in view of the repeated expressions by members of the Ministry of Foreign Office and other officials that American reinforcements had created no apprehension or suspicion of ulterior motives.

²² *Ante*, p. 126.

²³ Note of June 7, p. 130.

²⁴ *Ante*, p. 133.

3. Interview confirmed decided impression that there is no apprehension in minds of the Chinese of any class regarding presence of our forces in Tientsin. I believe note is principally for the purposes of record to show that Northern leaders are as exacting as other factions in respect of alleged infringement of sovereignty and the like unless, as may quite possibly be the case, the Chinese were inspired from outside.

4. With Minister MacMurray in Washington I shall not volunteer any detailed suggestion in regard to reply to the Minister of Foreign Affairs. The political military situation here is still very obscure, giving no ground for reasonable optimism. In the circumstances I do not consider a reduction of our forces in North China justified.

MAYER

893.00/9402 : Telegram

The Secretary of State to the Chargé in China (Mayer)

[Paraphrase]

WASHINGTON, September 10, 1927—1 p. m.

341. Your No. 862, September 8, 4 p. m. Merely send the Foreign Office a third-person acknowledgment stating that contents of the note relating to withdrawing of troops have been communicated to your Government.

KELLOGG

893.00/9419

Memorandum by the Chief of the Division of Far Eastern Affairs (Johnson)

WASHINGTON, September 15, 1927.

Conversation

The Secretary and the Chinese Minister (Sze).

Mr. Johnson present.

Subject: Policy of the United States toward China.

The Chinese Minister called this morning at eleven o'clock. He said that he had been receiving telegrams from China, both North and South, indicating that the Chinese were very much excited over a possible change of policy on the part of the United States towards China, the Chinese apparently believing the United States was about to intervene in some way in China. The Secretary stated his loss to understand why there should be any such excitement in China at the present time; that the United States had been very consistent in its attitude toward Chinese matters and that if there were any misunder-

standings on the part of the Chinese after the last two years, he was at a loss to know how to make them understand that there had been no change in the policy of the United States. The United States did not propose to intervene in China; it desired to refrain from any act which might be interpreted as intervention or as supporting one side or the other in the present factional strife.

Mr. Johnson observed that he believed that he could throw some light on the situation by stating that during the last few days, in connection with the visit of Mr. MacMurray to Washington, there had been published in the public press of the United States numerous articles referring to MacMurray's visit and stating that Mr. MacMurray was here for the purpose of conferring with the President and with the Secretary on the subject of China and hinting that Mr. MacMurray would insist upon a stronger policy and that the Government would heed his insistence. The Chinese Minister nodded his head to this, indicating that this was doubtless the reason why he was getting these telegrams. The Secretary stated that of course such articles were absurd, that there was no truth in them. He had talked with Mr. MacMurray on two or three occasions and found that Mr. MacMurray's ideas were in line with our own ideas with regard to what should be done in China, namely, that we should not intervene in China, but that we should do what we could to protect our people. The Secretary remarked that the policy of the United States Government was made by the President and the Secretary and he was not aware that there was any difference of opinion between the Department and the Legation on this subject and that the Minister should not be misled by rumors and gossip appearing in the press.

The Chinese Minister stated that he had had telegrams from his people referring to the presence of American forces in China and urging that they be reduced. The Secretary stated that this matter was one which had been receiving his closest attention; that there was no intention of keeping American forces in China any longer than was absolutely necessary. He stated that he had discussed the matter with the Navy Department and they were considering the question. The Secretary mentioned the fact that he had also received by telegram from the Legation at Peking a note addressed by the Chinese authorities to our Legation asking that American forces in China be reduced. He said that he was somewhat at a loss to understand why in this connection Chinese authorities had written only to us and had not written to anyone else. The Minister seemed to be somewhat at a loss to explain this. The Secretary authorized Mr. Johnson to show to the Minister the reference in the telegram to this fact, which Mr. Johnson subsequently did.

The Secretary assured the Minister that there had been no change in the American policy in regard to China and that as regards the question of American forces in those areas, the matter was under consideration.

N. T. JOHNSON

893.00/9603 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, November 21, 1927—4 p. m.

[Received November 21—1:45 p. m.]

1016. Following from commander in chief:

"The landing party sent ashore from United States Ship *Asheville* at Yeungkong, Kwangtung, on 18th November reported there had been small disturbance ashore and few shots fired at Catholic mission but Presbyterian mission not attacked. All Americans safe. Yangtze quiet."

MAYER

493.11/1318

*The Secretary of State to Mr. William B. Tower, Recording Secretary,
Board of Foreign Missions of the Methodist Episcopal Church*

WASHINGTON, December 30, 1927.

SIR: The Department acknowledges the receipt of your letter of December 22, 1927,²⁵ transmitting the text of a resolution adopted by the Board of Foreign Missions of the Methodist Episcopal Church at its annual meeting on November 15, 1927, in relation to the filing of claims for losses sustained by the Board in China during the present disturbances in that country.

In accordance with the request contained in the resolution above mentioned, the Department will take no action toward presenting any claims against China on behalf of the Board without previous consultation with the Board. In this relation, however, it may be added that the Department reserves the right, without consulting the Board, to enter protests against the destruction of Mission property and to include in such protests a further reservation of its right to file claims therefor. The Board will, of course, appreciate that these are substantive rights which the Government of the United States cannot relinquish in view of the possibility that it may be necessary for it to protect the interests of Americans generally in China at some time or other by a demand for punitive or

²⁵ Not printed.

exemplary damages. The Department has transmitted appropriate instructions to the American Legation at Peking in the premises.

I am [etc.]

For the Secretary of State:

NELSON TRUSLER JOHNSON

ATTACKS BY CHINESE NATIONALIST TROOPS UPON FOREIGN LIVES
AND PROPERTY AT NANKING, MARCH 24, 1927, AND EFFORTS OF
THE POWERS TO SECURE AMENDS

393.11/487: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 24, 1927—noon.

[Received March 24—6:03 a. m.]

244. The following from American consul at Nanking.

"Approximately 175 women and children were evacuated yesterday. Fourteen women and sixteen children were sent to Shanghai by steamer *Pi Yang*. Remainder are being cared for on board the U. S. S. *W. B. Preston* and U. S. S. *Noa*.

Cantonese troops have entered the city. A small naval guard has been established at this consulate."

MACMURRAY

593.00 Nanking/3: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 25, 1927—7 p. m.

[Received March 26—1:45 a. m.]

255. 1. Following from commander in chief:²⁶

"24th. Disquieting reports from Nanking. Cantonese taking over control of Nanking today was accompanied by looting and marked antiforeign feeling.

British consulate was attacked by a crowd of undisciplined soldiers, reported to be Cantonese. British consul general reported wounded and one British subject killed. Foreigners concentrated on Socony Hill under protection of small American guard."

2. Following from commander, Yangtze Patrol,²⁷ to commander in chief:²⁸

"24th. At 5 p. m. *Noa* and *Preston*²⁹ ceased heavy gunfire and *Emerald*³⁰ sent landing forces to wall under Standard Oil Company house

²⁶ Admiral Clarence S. Williams, U. S. N., commander in chief, U. S. Asiatic Fleet.

²⁷ Rear Admiral H. H. Hough, U. S. Navy.

²⁸ The Department had received a copy of this telegram from the Navy Department on Mar. 24.

²⁹ U. S. destroyers.

³⁰ British cruiser.

while *Emerald* covered with shrapnel and *Noa* and *Preston* cleared bund and foreshoaling of snipers by firing from ships. Landing forces successfully brought all foreigners from Standard Oil Company house including American consul and family and all American Navy personnel. One American sailor slightly wounded. *Noa* and *Preston* hit many times during the day. During the afternoon Cantonese troops looted American, British and Japanese consulates, wounded British consul, and are reported to have killed Japanese consul. Number American civilians killed and wounded uncertain but feared large. Missions looted. Americans left in city comprise 45 women, 20 children, 90 men. Fate uncertain. Negotiators brought on board *Emerald* and negotiations concluded demanding: First, immediate protection all foreigners and foreign property; second, reporting on board of Cantonese general in command before 23:00 tonight to negotiate regarding outrages; third, all foreigners must be brought to bund under escort by 10:00 tomorrow. If these demands are not complied with Nanking will be treated as a military area. Firing still going on both banks and large amount fire at Pukow. These outrages occurred in spite of every possible effort on the part of American consul and others to get in touch with some responsible Cantonese official to insure safety for foreigners.

Am sending all American refugees to Shanghai tonight via S. S. *Kungwo* and *Wenchow*, 20:00."

3. Following likewise from commander, Yangtze Patrol, to commander in chief dated 3:45 a. m., March 25th:

"Attempted negotiations with Chinese tonight, jointly with British, purpose secure relief foreigners remaining alive on shore, proved unsuccessful. Received indirect word from Chiang Kai-shek³¹ that he hoped arrive Nanking tomorrow to take charge of situation and will insure safety of lives and property all foreigners. Have jointly with British notified commanding general here that: First, we demand general, division commander rank, shall come on board prior noon today to negotiate and arrange for proper treatment of wounded foreigners ashore."

Then follows a garbled section for which a repeat has been requested. The message concludes as follows:

"It may be necessary fire upon barracks or salient military points in order obtain release Americans remaining alive ashore, approximately 150."

4. Following from commander in chief to commander, Yangtze Patrol:

"0025311. Your 0125-0345. American, British and Japanese commanders in chief agree that, if possible, further drastic action should be avoided until General Chiang Kai-shek has been given opportunity to fulfill his guarantees to provide adequate protection to all foreigners. 1017."

³¹ Commander in chief of the Chinese Nationalist forces.

Following also from commander in chief to Admiral Hough:

"0025314. Your 0125-1250. Use your own judgment in handling situation. 15:30."

5. In view of this demonstrated inability or unwillingness on the part of Nationalist authorities to protect American lives within Nationalist territory I am instructing all American consuls in that region immediately to try to have all Americans withdraw from the respective districts. The commander in chief has been informed and requested to render all proper assistance. I have given this to the press and respectfully suggest Department give widest publicity.

MACMURRAY

393.1123/4 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 25, 1927—8 p. m.

[Received 9:03 p. m.]

256. Following telegram to American consul at Hankow repeated for your information:

"March 25, 7 p. m.

1. Following information regarding situation at Hankow [*Nanking*] (this information transmitted to Department in paragraphs 1, 2 and 3 of my 255, March 25, 7 p. m.).

2. You should immediately call upon Ch'en³² and after informing him of the above protest against this unprovoked and outrageous attack upon and killing of American citizens by Nationalist forces at Nanking, impress upon Ch'en my expectations that he will at once take every possible measure for the relief of Americans still in Nanking."

MACMURRAY

893.00 Nanking/2 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 25, 1927—9 p. m.

[Received March 25—5 p. m.]

257. Following just received by Navy radio from Consul Davis, Nanking:

"0125. March 24th, about noon. After both British and Japanese consulates had been attacked and the consuls reported killed³³ and after the known cold-blooded murder of one American missionary and attempted murder of many others, all by Nationalist soldiers, Chinese police informed me that we would be destroyed unless we could escape.

³² Eugene Ch'en, Minister for Foreign Affairs in the Nationalist Government at Hankow.

³³ The report that the British and Japanese consuls were killed was erroneous.

Accordingly our party of 1 officer, 11 sailors, 9 civilians and 2 children escaped under constant fire across country to Standard Oil Company's house on Standard Oil Hill just above city walls which are visible from river and where many Americans and British already were. Although repeatedly robbed and threatened by Nationalist soldiers, vice consul and Standard Oil Company manager managed to keep them out of house for 2 hours but finally they broke in and, seeing our numbers, retired and commenced firing upon us in ever increasing numbers. American and British naval vessels then dropped shells immediately around house and we escaped over wall. Consulate forced by Nationalist soldiers and reported by Chinese as thoroughly looted. Not ascertained whether safe forced and code lost. 1051"

2. Repeated to Hankow and Tokyo.

MACMURRAY

393.11/500 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 26, 1927—8 p. m.

[Received March 27—3:56 p. m.]

264. My 255, March 25, 7 p. m.

1. Following is résumé of the latest naval reports regarding Nanking: Entire Socony foreign staff safe. Only one known American dead, Mr. Williams of Nanking University. Japanese landed 50 men covered by 3 destroyers and apparently occupied Japanese hulk. Eighty-seven women, fifty-two children and men, American refugees, sailed from Nanking for Shanghai morning of 25th. *Preston*, escorting, fired upon from Nanking while returning there and from forts above and below Chinkiang where fire returned with 4-inch battery; no casualties reported.

2. As the result of strong stand taken by naval authorities on 25th, foreigners began to come out of city that afternoon; Japan to complete evacuation that night, British consul general and missing marines were starting to come off to the *Emerald*. It was considered fair possibility that the 120 Americans who took refuge in Nanking University would be evacuated to ships that night. In view of this, naval authorities were postponing consideration of further action until the 26th. At 6:35 it appeared the American refugees referred to above who had been prisoners in Nanking University since the morning of the 24th, had begun to withdraw to wharves, not under military escort but thus far unmolested. Among this group was a Miss Moffatt who was wantonly shot twice through the body by Nationalist soldiers. American consul was aboard *Isabel*.

3. So far as was known at 6 o'clock on 25th all American homes and missions at Nanking had been looted. Theological Seminary, Hill, Cressy School and residences of Mr. Hutchinson and Mrs. S. J.

Mills known to be burned and probably majority of the American residences burned. All official and personal property in American consulate looted or wantonly destroyed by Nationalist soldiers in uniform. Many Americans, including women, were treated with the greatest brutality by soldiers [in?] Nationalist uniform who tore off their clothing and otherwise maltreated them. Practically all outrages were committed by soldiers in Nationalist uniform. One instance was reported of pistolling of French priest by Cantonese officer.

4. I have instructed American consul general at Shanghai to ascertain and telegraph directly to the Department names of American refugees from Nanking referred to in paragraph 1. I shall instruct Consul Davis tomorrow to take like action regarding Americans evacuated to the ships at Nanking.

MACMURRAY

393.11/502: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 27, 1927—4 p. m.

[Received March 27—3:25 p. m.]

266. Following is substance of radiogram, dated March 26, just received from Consul Davis:

1. Except for five representatives of firms and two missionaries who have remained at Nanking, all Americans there save Dr. Williams, who was killed, have been safely evacuated and have been or are being sent to Shanghai.

2. From sworn statements from many American citizens conclusively proven: First, that the bombardment on 24th saved many lives, including British consul general, and much property; second, that outrages were organized and evidently prearranged; third, that there was propaganda—propaganda was against all foreigners.

3. Firmly convinced that outrages such as took place at Nanking will be repeated shortly elsewhere and all foreigners forced to leave Yangtze Valley unless immediate and very strong steps are taken at Nanking."

Repeated to Tokyo.

MACMURRAY

393.1123/5: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 28, 1927—3 p. m.

[Received March 28—9:20 a. m.]

270. Following received from American consul general Hankow:

"March 26, 6 p. m. Ch'en desires me to convey to you his sincere regret for the loss of American life at Nanking 'regardless whether

acts were committed by Nationalist or Northern troops'. He asks me to say he will issue statement as soon as facts definitely established."

MACMURRAY

893.00 Nanking/6 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 28, 1927—7 p. m.

[Received March 28—4:55 p. m.]

272. Following from Nanking:

"March 27, 1 p. m. Examination of the depositions and verbal statements made by absolutely reliable American people prove that outrages committed by Nationalist soldiers were even more riotous than at first realized. Two known cases of attempted but unsuccessful cases of criminal assault upon American women and several other cases of only a shade less serious character. As I am absolutely convinced this campaign of terrorism and insult to foreigners was not only officially countenanced by and directed but even prearranged, the incident could hardly have been more outrageous. But for the timely bombardment the worst incidents could have been multiplied manifold. The significance of this is enormous and I respectfully suggest the immediate withdrawal of all Americans in Nationalist territory and the taking of some sufficiently strong action to defer the perpetration of similar incidents elsewhere."

MACMURRAY

893.00 Nanking/122

The Consul at Nanking (Davis) to the Secretary of State

U. S. S. "ISABEL" AT NANKING, March 28, 1927.

[Received May 3.]

SIR: I have the honor to report that the general sequence of events on the 23rd and 24th of March which caused the evacuation of the city of Nanking by all foreigners was as follows.

From the large bodies of Chihli-Shantung troops retreating in mild disorder upon the city it became evident in the afternoon of the 22nd that the city would probably soon either be captured or laid under siege. At about 4 o'clock that afternoon both field gun and machine gun fire, which until then had been distant, could be heard from the University of Nanking area. I at once asked the central American Committee to which I had entrusted the details of evacuating the citizens in the central and southern part of the city, to prepare all women and children, and all men who would leave, to be ready to start on a few moments' notice.

After consultation with the British Consul General and comparing information, he and I decided to advise an evacuation of our nationals to commence at 6:30 on the morning of the 23rd, and word to this effect was sent out at about 10:30 that night. The actual evacuation was accomplished by assembling the women and children at the University of Nanking whence they were conveyed to the river bank—a distance of some four and a half miles—in five motor cars furnished, one by myself, one by the Manager for the Standard Oil Company, one by Mr. Don Sims also of that company, one by the Manager of the Liggett and Myers Tobacco Company, and one by the Manager of the Texas Company. I first proceeded to the Hai Ling city gate and arranged with the police and the Shantung military guards to permit all Americans to pass whom Mr. E. T. Hobart, Manager for the Standard Oil Company and who generously offered to assist me by remaining at the gate in my stead, should identify. I then proceeded to the University and informed the Americans driving the cars that the road was clear and, after seeing the first trip started, dropped off at the Consulate.

By 10 o'clock the evacuation of all those women and children who could be persuaded to leave was completed, a total of 104 women and 69 children. Some 100 women and children had already left during the preceding two weeks in compliance with my advice. There were then left remaining in the city 68 men, 49 women, and 19 children. The evacuation was effected efficiently and promptly, thanks to the smooth working of the committee headed by Dr. A. J. Bowen, President of the University of Nanking, the very generous assistance of the Americans who loaned me their cars and services, and the efficient manner in which the commanding officers of the U. S. S. *Noa* and the U. S. S. *Preston* took the evacuees off to their vessels.

On the 22nd in the evening, 11 men were landed from the U. S. S. *Noa* under the command of Ensign Phelps and brought to the Consulate to afford protection during the looting in which it was anticipated the Chihli-Shantung troops would indulge if defeated or forced to withdraw. A signalman was included and another was also sent to the residence of Mr. Hobart, Manager for the Standard Oil Company, in order that communications might be ensured between the Consulate and the U. S. S. *Noa* in the event the telephone service should be interrupted or the city gates be closed. On the 23rd a small guard of six men from the U. S. S. *Preston* was placed at the Standard Oil residences, and the number of signalmen there was increased to two. These preparations later served to save the lives of the greater part of the foreign population of Nanking including the Japanese.

The British endeavored at that time to bring in a guard of 40 Marines but failed, owing to their being marched up to the city gate

under arms. Later they managed to smuggle in some 18 as orderlies. The American guard brought only a few automatic pistols and a Lewis machine gun, and were armed from rifles regularly kept at the Consulate.

During the evening of the 23rd a constant stream of defeated, but in general orderly, northern soldiers streamed through the city of Nanking towards the riverine suburb of Hsiakwan. Disorders broke out in that suburb about 6 in the evening, owing to the lack of facilities for transporting the defeated men across the river, and there was considerable firing. Later when the troops which numbered approximately 10,000 men were forced to return into the city, disorders took place and there was looting and indiscriminate firing all along the roads where the soldiers were forced to halt. In the vicinity of the Consulate this firing was more or less continuous though never large in volume. Bullets whistled over and past the building and a Chinese Military officer carrying money was shot by his own men only some twenty feet from the house, which on the west is near to a public paved road. This wounded man begged to be given assistance and was brought into the back gate but was later carried out at my request by the two Chinese police on guard at the Consulate. The next morning he was found dead at our back gate to which he must have crawled in the night. The police had evidently dumped him in the field instead of taking him to their station as requested. These events and the inability to get any sleep which they brought about proved trying for all at the Consulate.

Early the next morning it was reported that the Kuomintang troops had entered the city by the two south gates and were busy rounding up the defeated northern troops who had been left in the city, either by the treachery of their officers who had deserted them or from force of necessity arising out of the inadequate facilities for ferrying them across the river. At about 8 o'clock I saw a number of the southern soldiers passing our gate but they were so occupied in searching for northern soldiers that they paid but little attention to me. Shortly after I saw more and they cursed me in a most savage manner. I told them I was the American Consul and that we had no hostility to them. A petty officer, his face twisted with violent hate, pointed his pistol at me and said: "You are all alike. The British and Italians are killing our men in Shanghai and you Americans have drunk our blood for years and become rich. We are busy now killing Fengtien soldiers but we will soon begin killing all foreigners in Nanking regardless of what country they are from." I was surprised, but thinking it a sporadic incident, did not give it very serious attention.

Soon after my return to the Consulate from the entrance gate on the street, reports of outrages began to pour in. The first was

from the American Church Mission in the southern part of the city which had been entered and from which some property was stolen. Then Dr. Bowen, President of the University of Nanking, telephoned that after robbing a group of Americans including Dr. J. E. Williams, Vice President of that institution, Nationalist soldiers in uniform had wantonly and with no provocation whatsoever shot the latter through the head and instantly killed him. Chinese friends came in and reported that the Japanese Consulate had been looted, the Japanese Consul killed* and that the crowds of soldiers on the street said they were also attacking the British Consulate General. I unsuccessfully endeavored to call up the Japanese Consulate but called up the British Consul General finding that he was still safe and his compound quiet. I endeavored, both directly and by telephone, to have the police put me into touch with some high Kuomintang officer in order that I might appeal to him for the protection of Americans and of all foreigners. This endeavor and many subsequently made proved utterly futile.

Seven Americans from the Seventh Day Advent Mission then came to the Consulate for refuge, stating that they had barely escaped from Nationalist soldiers who had endeavored to kill them. They with Mr. McDonnell, Manager of Liggett and Myers Tobacco Company, who had sought refuge in the Consulate the night before, brought the total number of Americans in the Consulate up to 24 including Mrs. Davis and two children.

Reports came in from the Chinese that an attack upon the British Consulate General was taking place and that the Consul General and some other British had been killed.³⁴ Upon trying to call up their office at this time no response was obtained. I then called up the Standard Oil Company's Manager at his residence, which is not far from the British Consular premises, and he confirmed that an attack was being made, stated that two officers from *H. M. S. Emerald* as well as a number of other British had just come up to his house for refuge, and advised us to evacuate our Consulate which could not escape much longer and to endeavor to make our way through the open country to the Standard Oil residences. The Chief of the local police station came in at this juncture—evidently badly alarmed—and urged us to leave at once or we would all be killed. He said he believed the Consulate would be safer if no foreigners were there. After a hurried consultation with Ensign Phelps who strongly advocated leaving, we made a few hurried preparations and departed at about 11.

*It was later established that although shot at he was not killed. [Footnote in the original.]

³⁴The reports that the British consul general was killed were incorrect.

We started out from the rear entrance with a Chinese policeman accompanying us and with an American flag on a bamboo pole at the head of our column to show who we were. We had gone only about 100 yards when rifles were fired at us from a distance of several hundred yards, and from this moment until we had reached the foot of the hill we were under constant fire. It was estimated that no less than 300 shots were directed towards us. The policeman promptly deserted, but a faithful servant—the official gateman—who had volunteered to carry two hand grips with children's clothing stayed with us until he was shot down.

At one point the fire was especially hot and came from only a few tens of yards away, and had we not been able to break through a bamboo grove the party would certainly have been wiped out. As it was the unbelievably poor marksmanship of the Kuomintang soldiers saved our lives.

It should be stated here that as I was leading our column to show the way I met a Nationalist soldier carrying a flag and leading a horse. In response to his question I pointed to the flag and explained who we were. He made no objection but I later learned from Ensign Phelps that this man unslung his rifle when we had passed him some 50 yards and opened fire on us. At my request Ensign Phelps instructed his men not to return the fire unless the Nationalist soldiers should start to rush us.

When almost to the foot of the Standard Oil Company hill one of the bluejackets was shot in the shoulder and knocked down but we kept on until we had reached the houses. Later, through the friendliness of the local police and the faithfulness of Mr. Hobart's Chinese servants, this man was brought in.

Upon reaching the house we found there Mr. and Mrs. Hobart, Mr. Sims, and Mr. Green, all of the Standard Oil Company; Messrs. Jordon and Barnard, of the British-American Tobacco Company; Mr. Draper of the Texas Oil Company; Mr. Ware, of Liggett and Myers Tobacco Company; Mr. Storrs, of the Customs; the two American signalmen, and the guard of six; Captain Heathcote, a Marine officer from H. M. S. *Emerald*; Lieutenant Oliver Bellasis, a naval officer from the same ship; the Russian chauffeur of the British Consul General, and another Russian from the Customs; as well as Messrs. Bowker, Jack, Boulton, Laughland, and McKenny, all of whom are British civilians, and two Scandinavians. This brought our total up to 47 men, two women, and two children. Mr. Paxton came at about two making a total of 52.

For a time all was comparatively quiet and I utilized this opportunity to telephone to the American Consulate. Mr. S. S. Li, interpreter, answered the telephone and stated that five minutes after

we had left some 40 Nationalist soldiers had broken down the back gate and looted the entire house, firing at the Chinese office staff and servants but fortunately killing no one. I requested him to continue efforts for me to get in touch with some responsible officer and if located to send him to the Standard Oil houses. I also telephoned Reverend John G. Magee, of the American Church Mission in the riverine suburb of Hsiakwan, asking him to endeavor through his Chinese to get me in touch with some high officer. Mr. Magee, whose mission had not yet been reached, fearlessly undertook this task and finally got into touch with a self-styled Political Bureau of the Kuomintang in Hsiakwan whose officers promised to do what they could. This office consisted of a group of local men who had been operating sub-rosa and seemingly had not made any real contacts with the incoming army. Owing to their high respect for Mr. Magee they made a genuine effort and some seven Chinese men with Kuomintang flags, red cross badges and a written order for our protection, later came up to the Standard Oil residences with Vice Consul Paxton who had been marooned in Hsiakwan the night before by the closing of the gates and the looting. They were under fire for part of their way up, in spite of their flags, and subsequent to their arrival were only given momentary consideration by the soldiers who, incensed at their order for our protection, proceeded to rob at least some of them of their valuables. After remaining a few moments and making ineffective efforts on our behalf they disappeared.

Although I did not note the time, it was approximately 11:30 a. m. when our party from the Consulate arrived on the Standard Oil hill and at approximately 12:15 p. m. the groups of soldiers commenced arriving. With a few brief intervals between bands, there were soldiers at the house from that time on until approximately 3 p. m. Throughout this entire time whenever opportunity offered I continued telephoning to Mr. Magee and others in a continued effort to get in touch with some high officer.

The first two soldiers to arrive were the only decent ones we encountered. I told them who we were, asked one to remain to explain this to subsequent arrivals—which he did not do—and gave them my official Chinese card asking them to present it to their officer and to request him to come and see me. They were not actually friendly but were not menacing, and I had hopes at that time of making some effective contact with the higher officers.

The next and all succeeding bands were utterly hostile, and from their first arrival covered us with loaded and cocked pistols which for the most of the time we were talking with them they held at the breasts of Mr. Hobart and myself. I adopted a friendly and

polite attitude towards them in spite of their threats, and believe that this course is the only thing which for a score or more times prevented them from shooting both of us out of hand just as they had done Dr. Williams and others. I told them who I was and endeavored to give them my card, at the same time reminding them that there was no hostility between the Kuomintang and the United States. They replied that they did not want my card and did not care what or who we were, that they were not like other Chinese armies which cared for relations with foreigners but were of the "Revolutionary Army" to which all foreigners were alike, that Americans were battenning off of oppressed Chinese and that they intended to kill them and all foreigners. I endeavored to point out that such a course would do them no good and would only bring discredit upon their cause and embarrass their leaders. I told them that for them to murder Americans who had been friends of Sun Yat Sen would not be the act of good revolutionists. This line of argument evidently puzzled them and time and again they would try and shut me up saying, "what is the use of your talking when we are going to kill you anyway." However, by such means and with the assistance at first of a friendly and fairly brave Chinese policeman as well as of Mr. Hobart's loyal Chinese servants, we managed to get by with only being robbed and, by giving them what they wanted induced them to proceed to other houses whence we knew the foreigners had fled.

Finally, just as Mr. Paxton and the group of Chinese whom he brought with him arrived, a band of six soldiers brought over two American bluejackets from the other and adjoining Standard Oil House whom they had found and robbed. We managed to get these two men up stairs where all of the other foreigners had been sent some time before, and with the aid of the Chinese civilians endeavored to induce the soldiers to depart. At first they slightly changed their attitude at the requests of the delegates who had a written order from headquarters of the local Hsiakwan political bureau, but this did not last and, as has been stated, they turned upon their own civilians and robbed them of all their valuables and cash. From then on their attitude was worse than ever. They demanded money and promised to leave if given \$100 each for Mr. Hobart, Paxton, and myself. When this was raised and given them they then demanded ever increasing sums, stating if these were not given instantly they would search the house and, if they found arms in it, would kill us all. By stalling and running up stairs to get money from the foreigners there, we managed to gain a little time, hoping the Chinese civilians who had come up might be finding some responsible officer to rescue us. In the meantime all

three of us were repeatedly searched and robbed, and when Mr. Hobart's ring and wrist watch did not come off readily they started to shoot him saying, "we can get it off more easily that way. " I managed to prevent this by telling them they would get more with us alive.

At last it became evident that in the end they would enter the house so, on the pretext of getting more money, I went up stairs and told Ensign Phelps that our only chance of saving our lives lay in our men seizing and tying up these six soldiers. Just as the soldiers forced the door, pushing Mr. Hobart, Mr. Paxton, and myself backwards with cocked pistols held against us, I called for the bluejackets. When these came down the stairway the soldiers threw down their extra bandoliers of cartridges and managed to get away before they could be seized. At my request our bluejackets did not fire although they could readily have killed all six of our assailants at that time.

All of the soldiers whom we saw were in the regular Kuomintang army uniform, were well equipped both with rifles and pistols and from their dialects were from Hunan, Kiangsi, and a few even from Kwangtung—the latter could hardly speak Mandarin. They gave every evidence, both in manner and from their statements, of having been worked up by lying anti-foreign propaganda to an almost incredible pitch of hatred of all persons with white skins. They stated they were of the Sixth Army and seemed very proud of being General Cheng Ch'ien's men who they said "do not care what we do to foreigners." From the Red Swastika society representatives who later came out to the U. S. S. *Isabel* to negotiate for a promise not to resume the bombardment, it was learned that these men belonged to the 4th Division. From my long observation of the soldiers on the Standard Oil hill, from conversations with others at the entrance gate of the Consulate, and from the soldier whom we met on the way from the latter to the former place, I am convinced beyond the slightest possibility of doubt, that all were regular Kuomintang troops who were operating under orders. From all reports from all other Americans and other nationals I am certain that this condition was uniform, and that not in a single instance was an American or other foreigner molested on March 24th by any defeated northern soldiers.

As soon as our six assailants could take cover they commenced a steady sniping fire from behind graves and other objects, and as reinforcements were promptly and rapidly brought up, this fire became almost incessant. The two American women and the two children lay down on the floor of a bath room which was better protected than the other rooms, while the American and other men took such cover as possible against the bullets which came crashing through windows and doors.

As soon as it was evident that we were being attacked in earnest, messages were sent by semaphore signal to the U. S. S. *Noa* and H. M. S. *Emerald* asking that a landing force be sent to the foot of the city wall.

At my request Ensign Phelps ordered his men only to fire warning shots over the heads of those soldiers coming too close, but as there was soon every evidence of the house being rushed by overwhelming numbers, I reluctantly agreed that our bluejackets should shoot to kill, and the fire which they then returned was unquestionably effective. However, as it was soon evident that even this step would prove ineffective and that all in the house would shortly be killed unless outside help could be secured, signals were again made to the U. S. S. *Noa* and H. M. S. *Emerald* this time asking for a barrage to drive off our assailants. This signal had already been once made at the order of Lieutenant Bellasis of the *Emerald* but had then been countermanded by me, as I hoped we might be able to get away without it and was not certain what the effect of the firing of naval guns would be upon the safety of the Americans and other foreigners scattered in various parts of the city.

The barrage was promptly forthcoming and commenced at 3:25 p. m. It consisted of a curtain of shells which were dropped with remarkable accuracy on both sides of and behind the Standard Oil residences in such a manner as to kill or drive off the attacking Nationalist soldiers. As the only persons on the hill sides at that time were the Nationalist soldiers any fatalities which were caused must have been among those actually in the act of attacking us.

The behavior of the American signalmen from the *Noa* and the *Preston* who continued to send messages with bullets whining past them and chipping bits of stone from the verandah balustrade at their side was an inspiring demonstration of efficiency and cool bravery, and unquestionably saved the lives not only of our immediate party but of the Americans and other foreigners yet in the city.

As soon as all hopes of escape save by military steps had passed, I asked Captain Heathcote, a British Marine officer from the *Emerald* who was thoroughly familiar with the country and was the senior officer in the house, to take charge in order to prevent confusion and loss of speed. Ropes were improvised from bed sheets and electric wiring, and with a few bluejackets guarding the ridge the party went down to the top of the city wall which is some 100 feet distance and some 40 feet below the houses. There the party was gradually evacuated over the wall, the women, children, and the wounded blue-jacket being lowered, while the men all climbed down. The only serious mishap at this time was when one of the sheet ropes broke and Mr. Hobart fell some 15 or 20 feet, dislocating and fracturing an ankle.

Although the landing party failed to meet us, having gone to the lower causeway across the water-filled moat paralleling the city wall while we selected a causeway further west, its known presence ashore prevented our being attacked, and we made our way to the river bank. Our progress at this time was slow owing to the necessity of carrying Mr. Hobart and of having to ferry across a wide creek where we commandeered three sampans. Once on the shore our dangers were over and we were taken out to H. M. S. *Woolsey* which steamed in quite close to the bank for this purpose.

I at once asked to be sent to the *Noa* and accompanied by Lieutenant Commander R. C. Smith proceeded to H. M. S. *Emerald* for a conference with Captain England as to possible steps for the rescue of the Americans, British, and other foreigners yet in the city. A group of Chinese with Red Swastika flags was seen on the shore and thinking they had come for negotiations and would afford us a means of contact, I requested Captain England to send a boat for them, which he at once did.

The Chinese party proved to be from the local Red Swastika Society whose objects are similar to those of the usual Red Cross organizations, and was headed by Mr. Hsu, Vice Chairman of the organization. Mr. Hsu said he had received a telephone message from General Cheng Ch'ien, who had just entered the city, asking him to come out and express regrets for the anti-foreign agitation which was caused by local rowdies and to request that there be no more bombardment by the naval vessels. After a conference held on board the *Emerald* by the American and British naval commanders a series of demands were drawn up requiring (1) the protection of all foreigners and their evacuation to the river shore under guard, (2) the issuance of strict orders for the protection of all foreign lives and property, and (3) that the Commander of the 4th Division come on board before 11 that night to arrange for the protection of foreigners. This was handed to Mr. Hsu with the request that it be taken to General Cheng Ch'ien at once.

At the end of this conference the U. S. S. *Isabel* arrived from up-river with Rear Admiral Henry H. Hough, who became Senior Naval Officer Present.

At 11 that night Mr. Hsu returned with a despatch from General Cheng, copy of which is enclosed,³⁵ in translation, in which he merely repeated the verbal message conveyed by Mr. Hsu in the afternoon.

A conference of the Senior American and British naval officers was then held which was presided over by Admiral Hough on the U. S. S. *Isabel* and at which a second series of demands was decided upon,

³⁵ Not printed.

reduced to writing and sent back to General Cheng Ch'ien by Mr. Hsu. At this time Mr. Hsu stated he was certain all foreigners could be brought out and that his organization would do all it could to render assistance, but that he was not authorized to negotiate for General Cheng Ch'ien.

The next morning at about 11 Mr. Hsu returned, bringing with him a despatch addressed to the Senior Naval Officer in which he stated (1) that, through the Commander of the 4th Division and other division commanders, he had issued a very strict order for the protection of all foreign lives and property; (2) That the Commander of the 4th Division could not be sent on board as demanded and could not be held responsible for the incident of the 24th; that after he (General Cheng) had made investigations and reported his findings to the Nationalist Government, negotiations should be carried on through the regular diplomatic channels; that he (General Cheng) had issued orders for the Chinese cruisers to cease fire and hoped that similar orders would be issued to the foreign war vessels; (3) That on the morning of the 25th he would undertake to have soldiers escort the remaining refugees to the river front, provided the Consuls would notify their nationals to assemble in definite places; but that he considered that by the 25th conditions would again be normal in Nanking and that there was no danger that the unfortunate incidents of the 24th would ever be repeated; (4) That all demands should be handled through diplomatic channels and that the 4th section of the American and British Naval Officers' demands did not appear to him to be proper, and caused him great surprise; (This was the threat of action in case first three demands were not complied with); that the bombardment of the 24th had caused great loss of Chinese life and property and would be made the subject of diplomatic representations; and finally that all diplomatic matters should be handled through the usual diplomatic channels.

In view of the looting of the three Consulates, the wounding of one Consular Officer, and the attempted murder of all three, all by his troops, the references to diplomatic intercourse were especially impudent; while the refusal to enter into any local negotiations regarding the outrages of the 24th was certainly evasive and indicative of unwillingness to afford any real satisfaction.

At about 2 in the afternoon of the 25th two American missionaries were brought out, together with two officers representing General Cheng Ch'ien, one the head of the Army's legal department, and the other had on his card the title of "Representative of the 6th Army". The missionaries reported that practically all Americans were assembled at the Agricultural Building of the University of Nanking and

were being guarded by Nationalist troops. The officers brought with them the demands sent in to General Cheng at 4 that morning by Mr. Hsu which they wished to discuss.

After consultation with Admiral Hough and at his request I saw these officers and told them as from him, and myself only acting as interpreter, that the time for discussion was past and that unless the Americans and other foreigners were safely brought out that same afternoon General Cheng and his troops would have to take the consequences. No statement of what such consequences would be was made, but they were given to understand that they would be of a dire nature and that the time left for averting such a calamity was very short indeed. The officers, palpably very much alarmed, returned to shore.

A conference was then held by the Senior American and British Naval Officers on the U. S. S. *Isabel* as to the course to be taken in the event the promised bringing out of Americans and British should not be accomplished. Before this was concluded the Japanese Naval Commander sent word requesting that any contemplated bombardment be postponed until they had brought out their nationals for whom they had sent in with the assistance of the Red Swastika Society. Almost immediately after, Captain England received a signal that the remaining British, including Consul General Giles, were coming out and the conference was adjourned to permit his returning to his ship.

Practically at the same time the Americans began arriving and were quickly and efficiently brought aboard the American naval vessels. Their condition and experiences will be made the subject of a separate report.

All Americans were brought out with the exception of Dr. J. E. Williams who was murdered on the 24th, and was buried before the American party had left the University. With the exception of seven who were sent to Shanghai on the 27th, all were sent to that port from here on the 26th by the U. S. S. *Preston*.

There is no question but that General Chiang Chieh-shih ³⁶ either issued no orders here for the protection of foreigners or that if issued, such orders were ignored. It is probable that he did not even stop off here but proceeded to Shanghai direct from Wuhu.

The lives of the Americans in Nanking were saved, first, by the naval barrage on the 24th which caused an almost immediate cessation of the killing and looting by Nationalist soldiers and, secondly, by the threats which were made by the American and British naval authorities on the 24th and 25th, which produced in the mind of the officers who came from General Cheng the conviction that any further delay would result in an immediate bombardment.

³⁶ Courtesy name of Chiang Kai-shek.

The prompt efficiency of all steps taken by the American Navy deserve the highest praise, as does the unfailing kindness and consideration shown to all evacuated Americans. The behavior of Ensign Phelps and the signalmen and guards from the *Noa* and the *Preston* played an all-important part in saving the lives not only of over 120 Americans, but of a large number of British and other nationals.

It is surprising that in spite of the considerable volume of rifle fire directed against the 52 persons in the Standard Oil residence there were no real casualties. This remarkable escape is attributable both to poor marksmanship on the part of the Nationalist soldiers and to the coolness of the majority of the American and British naval men and civilians.

Vice Consul Paxton rendered faithful and efficient service throughout the entire time and I wish specially to commend the promptness with which he carried out all my requests.

The excellent work done by Ensign Phelps and the American signalmen and bluejackets has already been mentioned. Captain Heathcote and Lieutenant Bellasis of the *Emerald* also showed commendable courage and the latter displayed pleasing efficiency in directing the escape over the wall.

The cool courage and quick headwork of Mr. E. T. Hobart also contributed very materially to the saving of all lives, and for his part in the evacuation he deserves the highest possible commendation.

With only one or two exceptions all Americans and British whose conduct was observed, manifested great calmness and courage and the general behavior of our citizens through the more than trying time is a source of much justifiable pride.

The frank and unreserved cooperation between Americans and British, both naval and civilian, was most gratifying and contributed largely to the saving of many lives. In alleviating distress no distinctions were made as to nationality. In this connection the unreserved kindness, energy, and frankness of Captain England of H. M. S. *Emerald* were specially conspicuous.

In conclusion I wish to express my deep appreciation for the wholehearted kindness and constant assistance of Rear Admiral Henry H. Hough, his staff, Lieutenant Commanders R. C. Smith of the *Noa* and G. B. Ashe of the *Preston*, and the Captain and officers of the U. S. S. *Isabel* who have taken in Vice Consul Paxton and myself and to whose hospitality we owe our ability to remain at, if not in, Nanking.

I have [etc.]

JOHN K. DAVIS

893.00 Nanking/4 : Telegram

The Ambassador in Japan (MacVeagh) to the Secretary of State

Tokyo, March 28, 1927—8 p. m.

[Received March 28—12:30 p. m.]

41. At interview with Minister for Foreign Affairs this afternoon he stated that the occurrences at Nanking had not caused the Japanese Government to change its Chinese policy and the Japanese Government did not at this time consider it necessary or advisable to send troops to China. The Minister for Foreign Affairs believed that Chiang Kai-shek was strongly opposed to these outrages upon foreigners and would exert his utmost efforts to suppress them and maintain order; that he believed the outrages at Nanking were caused by the radicals among the Cantonese who were trying to discredit Chiang Kai-shek; that the Japanese had advised Chiang Kai-shek that his future and the future of the Cantonese Government depended upon the maintenance of order and that [*the?*] suppression of these outrages and if order was [not?] maintained it would mean an end both of Chiang Kai-shek and of the Cantonese Government. The Minister for Foreign Affairs believing that Chiang Kai-shek would be both willing and able to maintain order, thought it would be a mistake for any of the powers to take oppressive measures at the present time as this would merely assist the enemies of Chiang Kai-shek and enable the radicals amongst the Cantonese to get control of the Cantonese Government and army. The Minister for Foreign Affairs believed that the outrages at Nanking were committed partly by the Cantonese and partly by the Shantung defeated army but insofar as they were due to the Cantonese soldiers they were instigated by the radicals among the Cantonese who are aiming at the destruction of Chiang Kai-shek.

MACVEAGH

893.00 Nanking/10 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, March 29, 1927—10 a. m.

[Received March 30—8:40 a. m.]

275. 1. The British Minister called the Japanese Minister and myself into consultation yesterday morning. Sir Miles Lampson had been instructed by his Government to ascertain our views regarding the meeting of commanders in chief which Admiral Williams reported to the Chief of Naval Operations in his telegram 0027-2140.

2. Lampson has received a report from his representative at Han-

kow, Teichman, that Eugene Ch'en apparently had been genuinely dismayed and shocked when he learned of the Nanking incident. The report stated that Ch'en insisted that Shantung troops must have committed the outrages because he could not believe that Nationalist troops would be guilty of such conduct, but that he said he was having an investigation of the matter made and would assume all responsibilities properly attaching to a Government representative if it developed that there was an appropriate case. Ch'en had tried to qualify this by a reservation regarding the shelling of Socony Hill by foreign warships but he modified this reservation when Teichman asked him not to add insult to injury.

3. Full accounts of the Nanking incident had been received by the Japanese Minister. I shall telegraph a summary if it is desired. This report confirms the fact that although some looting had been done by Shantung troops before they left Nanking, the attacks upon foreigners and the incendiaryism and looting of their property had been done only by soldiers in uniforms of Nationalist troops of the Second and Sixth Armies who had not molested any Chinese. Yang, chief of the Political Bureau of the Sixth Division of the Second Army, had stopped the raids upon the Japanese consulate after some hours. He expressed regret and told the Japanese consul that members of the Nanking branch of the Communist Party had instigated the attacks. The Japanese consul reported that he had followed the policy of making absolutely no resistance throughout the affair.

4. It was also stated by the Japanese Minister that on March 27 his Government had instructed the Japanese consul general at Shanghai to forcibly present the Nanking incident to Chiang Kai-shek, who had gone to Shanghai after a brief stay at Nanking, and to urge him to return immediately to Nanking and confer with American, British, and Japanese authorities as to punishment of the guilty and other measures which will be satisfactory to the powers.

5. The British Minister suggested at first that in view of the conciliatory attitude of Eugene Ch'en, we should offer the Nationalist regime first an opportunity to show its good faith by proposing that representatives of the interested powers and of the Hankow regime make a joint investigation. The Japanese Minister thought, however, that all the essentials of the case had been established beyond doubt and that by endeavoring to negotiate with Ch'en, who has no authority of his own and is merely the spokesman of the radical elements in control, we would merely subject ourselves to dilatory action and evasions. The Japanese Minister believed that there was hope for far more satisfactory and prompt action regarding the

punishment of the guilty from Chiang Kai-shek. The British Minister and I agreed with this view both because we know that due to an atmosphere of intimidation by Russian Communist agents Ch'en is not a free agent, and because the steps already taken by the Japanese with Chiang Kai-shek seem to give confirmation of a relationship between them, which makes it likely that he could be prevailed upon by Japanese influence.

6. In the hope that in the meantime I would receive some indication of your views on the situation at Nanking, I suggested that we give the matter further consideration and meet again in the evening in the hope that at that time we could all three agree upon a recommendation we could offer to our respective Governments.

7.³⁸ At our subsequent meeting we decided to recommend to our respective Governments:

"A. To take the matter up at once with Chiang Kai-shek through our consul general at Shanghai and present to him the following terms: (1) Adequate punishment of the commander of the troops responsible for the murders, personal injuries and indirect and material damage done; as also of all persons found to be implicated. (2) Apology in writing by the commander in chief of the Nationalist army including an express written undertaking to refrain from all forms of violence and agitation against foreign lives and property. (3) Complete reparation for personal injuries and material damage done.

B. Simultaneously to inform Chiang Kai-shek through our consuls general that unless he demonstrates to our satisfaction his intention to comply promptly with these terms the interested powers will find themselves compelled to specify a time limit for compliance, failing which they reserve to themselves [the right?] to take such measures as they consider appropriate."

8. We decided also to avoid delay by sending the above recommendation at once but that it should be considered as tentative until we have consulted our French and Italian colleagues whom we are to see today with a view to securing their cooperation.

9. I do not see how we can ignore the affair at Nanking or request anything less than this studiously moderate degree of reassurance and amends if we are to avoid an unfortunate new Boxer movement, organized and encouraged with the audacity and adroitness which has been introduced into the Chinese antforeign movement by the Russians. We must frankly recognize, however, that most of all we are confronted by the possibility that Chiang Kai-shek will prove unable or unwilling to abandon the truculent attitude which,

³⁸ Par. 7 not paraphrased.

according to the press, he has assumed. His reported attitude is that the incident is now over and is of no importance anyway. There is also the possibility that Chiang Kai-shek may prove to be fair minded and reasonable, but that at the instigation of the Russian advisers who created the incident, he may thereupon be removed from his position. We must be prepared in either case to take resolute action in collaboration with the other powers chiefly interested to bring pressure upon the Nationalists. It is my understanding that the naval authorities have given favorable consideration to the possibility of destroying the forts at Kiangyin near Nanking. Apparently this could be done without unduly endangering noncombatants. Personally, however, I doubt the effectiveness of any purely local act of reprisal.

10. Should we indeed have to deal with a Nationalist China capable of instigating and condoning the Nanking affair, it must be realized that the problem presented is greater and more serious than we have previously admitted to ourselves, and we must deal with it on broader lines than we have before conceived. It must be recognized that we have to deal with a vast number of people who are latently hostile to Americans no less than to other foreigners, and who are subject to incitement, to mob brutality like that personally witnessed by our military attaché at Wuhu (see Legation's telegram 251 of March 25 [26th], noon³⁹). With such a possibility in mind, I feel that we owe it to American citizens in Kuomintang territory to hasten their withdrawal completely from China or to Shanghai or such other places, like Tientsin, where we can give reasonable assurance of their safety. With this evacuation completed, I see no effective way to bring pressure on China except to blockade all Chinese ports from Shanghai south. Lampson showed himself, in such discussion as we had of the matter, personally favorable to this course as a last resort. The Japanese Ambassador is noncommittal, indicating that while his Government was previously opposed, it might favor such a course should it be necessary for the solution of the problem presented by the affair at Nanking.

11. Possibly there is some other constructive course of action in this situation which we have overlooked. Unless there is such a course open, I cannot urge too strongly that we face the facts as they are on the basis that we must obtain a satisfactory solution in order to avoid vastly greater evils in the future. There should be cooperation perhaps among the powers chiefly interested, France and Italy not necessarily being included. I believe that action such as I have indicated could yet keep China from becoming a hostile

³⁹ Not printed.

agent of Soviet Russia against western powers, including the United States. If this situation is not resolutely met, it will mean the downfall of western influences and interests in the Orient.

12. This telegram has been repeated to the American Embassy at Tokyo.

MACMURRAY

893.00 Nanking/9 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 29, 1927—8 p. m.

[Received March 30—5:49 a. m.]

285. 1. Following radiogram dated March 28 received from American consul, Nanking:

"Following conclusions and recommendations arrived at after careful investigation and consideration:

Nationalist soldiers deliberately fired upon, with intention to kill, the British, Japanese and American consuls knowing them to be such. In my case I had just given them my card and asked to see their officer. In the case of the Japanese consul he was shot at while ill in bed. All three consulates were deliberately looted and, although this was known by Nationalist officers, no effective measures were taken to afford protection up to the time of naval barrage to rescue party in Standard Oil Company houses. Adequacy of possible steps taken thereafter not known.

Murder, robbing, attempted rape and other outrages were committed upon Americans and other foreigners in all parts of the city from 8 a. m. with no attempt at official restraint until after naval barrage at 4:30 p. m.

Although we attempted all day, through the police authorities and several other channels, to see some responsible officer, none would see me.

From statements made to me and many other Americans by soldiers, from soldiers' conversations overheard by Americans in hiding, from the fact that soldiers proceeded in bands whose movements were under direction and were promptly assembled by bugle calls upon commencement naval barrage, it is proven that outrages were planned and could not possibly have been an accidental getting out of hand of a few troops.

On March 24th and 25th Nationalist commander in chief not only flatly refused to send any high officer to consult with naval and consular officers regarding safety of foreigners remaining in city, but his reply was both evasive and insolent.

In view of above facts it appears evident that the American policy of conciliation heretofore followed towards the Nationalist Government has failed and that unless a very strong attitude is promptly taken all foreign lives and property in China will remain in serious and constantly increasing jeopardy."

2. I assume the Department will give publicity to the substance of this report. With that in view I have refrained from giving it to the local press.

MACMURRAY

893.00 Nanking/11 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, March 29, 1927—midnight.

[Received 4:05 p. m.]

289. My telegram No. 275 of March 29, 10 a. m. Identical recommendation is being telegraphed by French and Italian Ministers to their respective Governments.

MACMURRAY

125.643/9 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 31, 1927—noon.

[Received March 31—5:42 a. m.]

300. Davis reports: March 30, noon. The consulate is gutted but safes as yet unopened and many books and volumes bound correspondence still there. Police are on guard but soldiers disregard them. Unrestrained looting foreign houses continued through March 28th.

MACMURRAY

893.00 Nanking/14 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 31, 1927—3 p. m.

[Received March 31—10:30 a. m.]

303. My 275, March 29, 10 a. m.

1. Following from patrol commander, March 30th:

“Attached telegram March 30th from patrol commander:

0830, at Nanking. Although conditions ashore becoming more normal, truculence and arrogance of Nationalists towards foreigners growing daily as they become increasingly convinced that foreigners can be insulted and injured with impunity. Chinese messenger to International Export Company today was beaten. Returned with message that any British endeavoring to go there would be shot. Light wall guns trained on each foreign naval vessel entering port and it is reported that field guns are being mounted on city wall

threatening foreign vessels. No communication with Nationalist authorities March 25th. It is evidently inadvisable and dangerous for any foreigners to go ashore. 1533."

2. With reference to the foregoing, American consul, Nanking, telegraphs March 30th:

"Referring to commander, North China Patrol, message 0330-1533. I consider the unfavorable developments mentioned have been caused by absence of any definite action since March 25th, and I believe each day's delay is rendering the eventual solution more difficult. I would suggest desirability of presenting demands as soon as possible, not subject to discussion local authorities, covering Nanking incident with statement that failing compliance we reserve the right to take such action as we deem necessary."

MACMURRAY

S93.00/8491 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, *March 31, 1927—6 p. m.*

111. Your No. 275, March 29, 10 a. m.; and No. 277, March 29, noon.⁴⁰ These telegrams came to me late last night, the last in badly garbled form but believe we understand substance of it.

After consultation with Navy Department we think we ought to have advice from Admiral Williams regarding both telegrams and therefore have wired him your suggestions as to some of the difficulties involved, a copy of the proposed ultimatum, and the substance of your recommendations as given in your No. 277. Please repeat your two telegrams to Williams in naval code.

To us in the Department it seems that there may be danger of arousing further hostilities against Americans in the danger zones in the areas in China where Americans have not evacuated yet. There is also the question as you say whether Chiang Kai-shek would prove able to control the Nationalist army and to meet demands. Furthermore, consideration must be given to the question that in case this ultimatum is delivered to Chiang and nothing is done, the Governments concerned would be compelled to seek some kind of reprisal or take drastic action. We gravely doubt the advisability of delivering this ultimatum at the present time but suppose some formal demand for reparation and apology must be made by us either jointly or alone. Please inform us by wire what decision has been arrived at by other powers.

Because paragraph 10 of your No. 275 regarding advising Americans to hasten their withdrawal from danger zones was badly garbled,

⁴⁰ Telegram No. 277, p. 94.

we do not understand it fully but would thoroughly approve your advising them to leave for places where protection can be given them.

From your No. 277 we understand that you advise sending soldiers from the Philippines. A few days ago we asked Williams for his advice and on the 28th he wired that in his opinion conditions at present did not demand army troops. Today we again asked his advice. Understand that in wire to War Department the military attaché⁴¹ concurred in your message but advised sending the soldiers to Tientsin. One thousand five hundred additional marines are en route to the coast proceeding to Shanghai. As soon as we learn the advice of Admiral Williams we will wire further to you in relation to these messages.

KELLOGG

893.00 Nanking/16 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 1, 1927—9 a. m.

[Received 2:30 p. m.]

312. My 275, March 29, 10 a. m.

1. The Japanese Minister has received the following instructions from his Government:

“(1) The Japanese Government agree to all the proposals except the time limit in “B”.

(2) Chiang Kai-shek according to information in the possession of the Japanese Government is in a difficult position. At a meeting of the general council at Hankow the Communists endeavored to limit Chiang's powers and seemed to be contemplating his downfall by placing him in a difficult position in connection with the Nanking affair. Consequently the adoption of a strong attitude by the powers and especially an indication of their intention to resort to force in case Chiang should fail to accept their terms might facilitate his downfall as desired by the Hankow Communists and might result in greater difficulty in the maintenance of order south of the Yangtze and anarchical conditions would become worse.

In these circumstances the best plan seems to be to allow the Chinese themselves to keep order in China by giving a chance to the more healthy elements to make an attempt at stabilization.

The Japanese Government agree that the Nanking affair is a very important one and that there is reason for us to resort to strong measures for its solution. Our idea is to induce Chiang Kai-shek to expedite a solution on his own initiative, leaving it to him and other healthy elements to settle the present affair thus preventing Chiang and the foreign powers from being entrapped in this Communist intrigue. It is very necessary for us to avoid such steps as would result in rendering the downfall of Chiang Kai-shek and his

⁴¹ Maj. John Magruder, U. S. Army.

associates more easy. For these reasons please discuss the matter with the British and American Ministers and endeavor to eliminate the phrase specifying a time limit for compliance, failing which the powers reserve to themselves etc., etc.

In the opinion of the Japanese Government it would be better to formulate terms without a time limit and see what attitude and what measures are taken by the Southerners; and to consider the question whether we should resort to strong action or not. For Japan, which has two thousand residents up river and six consulates or branch offices, it requires considerable time for preparation for their protection or evacuation."

2. We are to discuss the matter further tomorrow (April 1st).

MACMURRAY

893.00 Nanking/20 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, April 1, 1927—8 p. m.

[Received April 2—2:47 a. m.]

317. Legation's telegram 275, March 29, 10 a. m.

1. American, British, French, Italian, and Japanese Ministers met this afternoon to discuss the reply of the Japanese Government to the recommendations for joint demands regarding the Nanking incident. For the Japanese reply, see my telegram 312 sent today at 9 a. m.

2. Yoshizawa indicated that the Japanese Government would be willing to approve the terms as recommended with the deletions from section B of the words "to specify a time limit for compliance, failing which they reserve to themselves". We all agreed to recommend this deletion in order to obtain united action.

3. Sir Miles Lampson had been instructed that the British Government was reconsidering the whole problem of China in the light of the Nanking incident and was drawing up certain proposals in consultation with British military and naval experts to be referred to the other four powers chiefly concerned. Lampson presumed that these proposals dealt with sanctions. The British Government agreed in general with the terms recommended but raised the question whether we should not further insist that Chiang Kai-shek should attend a formal military parade and salute the flags of the powers whose nationals had been attacked and offer apologies in person. All of us, Lampson included, agreed that we could not hope to obtain as much as this.

4. It was also the view of the British Government that we should notify Eugene Ch'en of the demands and allow him the opportunity of doing what he could to obtain compliance, since there is no question

of discussion or negotiation with respect to the terms to be presented. As both the British and Japanese Governments agreed in the opinion that it was not advisable to single out Chiang Kai-shek for responsibility independently of the Nationalist regime, the five interested Ministers decided to recommend that the terms be presented at the same time to Chiang and to Ch'en, the following preface being used in the latter case:⁴²

"Under the instructions of the (blank) Government I am directed by the (blank) Minister to present to you the following terms (which are also being addressed to General Chiang Kai-shek, commander in chief of the Nationalist armies) for the prompt settlement of the situation created by the outrages against (blank) nationals committed by Nationalist troops at Nanking on March 24th last."

5. Instructions have been received by the Italian Minister authorizing him to take part in any joint action upon which he and the other interested Ministers agree.

6. The instructions of the French Minister are to the effect that he should not take the initiative but that he is authorized to take part in any joint action definitely agreed upon after full discussion by the five interested Ministers.

7. The five interested Ministers were in agreement that time is of the essence for the success of any demands but that it would be worse than useless, it would be calamitous, to make such demands if the interested powers were not definitely resolved to follow them up by any necessary means to secure satisfaction. As I had not received any indication of the attitude of my Government, further consideration of the matter had to be postponed until I should receive my instructions.

MACMURRAY

893.00 Nanking/21 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, April 1, 1927—9 p. m.

[Received 9:35 p. m.]

318. 1. I have just received Department's telegram No. 111 of March 31. It will be seen from my telegram No. 317 today that the other four interested powers are fully prepared immediately to proceed with the demands recommended by us for the settlement of the Nanking incident, but that for the time being action is withheld pending your decision as to the attitude of the American Government. Thus full responsibility for the disastrous results which

⁴²Quotation not paraphrased.

will follow delay or failure in exacting the minimum of satisfaction contemplated for the outrages at Nanking will fall on the American Government. In the situation confronting us in China I beg you to realize that the personal danger to American citizens and other foreigners throughout the country is greatly and definitely increased by every day of delay in dealing effectively with the Nanking affair. I do not see any necessity for awaiting the comments of Admiral Williams upon purely political matters regarding which I think the Department has been adequately informed by me. I earnestly request, therefore, immediate instructions as to the course you plan to follow.

2. Obviously we must be prepared if necessary to enforce compliance if we make any demands for apology and reparation. Further outrages against Americans would be invited by a merely formal demand which we allow the Nationalists to ignore. As suggested in Legation's telegram 275 of March 29, 10 a. m., paragraph 11, the only alternatives are to participate promptly and wholeheartedly in joint action with the other interested powers or frankly to pursue an independent course. The latter alternative would result in either making us responsible for paralyzing the action now proposed by the other interested Governments or in allowing the common burden to be carried by those powers which have become convinced of the fact that in reality there exists an unacknowledged state of war against us being waged by the element now in control of the political thought of China.

2. [3.] The proposed plan of action regarding the Nanking affair is not punitive or retaliatory and does not contemplate intervention. We are for our part following a policy of yielding to circumstances and evacuating our citizens from Kuomintang territory, it being practically certain that we will have to do likewise in the North soon. To enable this evacuation to be carried out with safety it is absolutely necessary that we should not hesitate in meeting the situation created by the Nanking outrages. With all respect, the evidence of any hesitation on the part of our Government in meeting the necessities of the situation created by the Nanking affair fills me with consternation.

MACMURRAY

893.00 Nanking/71

The British Embassy to the Department of State

AIDE MEMOIRE

His Majesty's Embassy have been notified by His Britannic Majesty's Principal Secretary of State for Foreign Affairs that His

Majesty's Government have as yet received no intimation from the United States Government of the action which they are prepared to take in regard to the Nanking incident. His Majesty's Government assume, however, that the United States Government do not contemplate allowing this outrageous affair to pass without insisting on a proper apology and reparation, and that they will be ready to cooperate with the other Powers concerned in opposing and doing what they can to prevent for the future so flagrant a manifestation of the present wave of violence and disorder which prevails throughout the south of China, accompanied as it has been by deliberate outrages and insults to peaceful and law-abiding American and other foreigners.

His Majesty's Government are themselves seriously considering what measures can usefully be taken to meet this situation and they would be glad to communicate most frankly to the United States Government the result of their deliberations, in the hope that the latter will be willing to cooperate wholeheartedly with them in defending their common interests in China against repetition of this outrageous attack upon them. In the meantime, His Majesty's Government would be glad to learn whether at this stage the United States Government have any observations or suggestions to offer as to the nature and scope of the measures which might be taken for this end.

WASHINGTON, *April 2, 1927.*

893.00 Nanking/17 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, *April 2, 1927—noon.*

117. Legation's telegrams No. 275 of March 29, 10 a. m. and No. 312 of April 1, 9 a. m. As you were informed by our telegram No. 111, March 31, 6 p. m., the Department asked through the Secretary of the Navy for comment and advice from Admiral Williams with respect to the action proposed in your telegram 275, March 29, 10 a. m., paragraph 7. In case you think immediate action necessary before the Department receives the advice and comment of Admiral Williams, you may give the following instructions to our consul at Shanghai: He may join with the consuls general of the other interested powers in a joint note to Chiang Kai-shek or send a note identical with those sent by the other consuls general. The note may set forth the action of the Chinese troops at Nanking and inform Chiang as commander in chief of the troops that we hold his organization fully responsible for the acts committed there, that we protest against these acts and

insist upon reparations and complete satisfaction for the insults which have been offered to the Government of the United States and to its flag and officials and also for all the damage which has been done to citizens of the United States, their persons and property, and that this Government requires guarantees that its citizens be protected in the future. The Department believes that the note in conclusion should reserve the right of this Government to take such action as it shall deem necessary in the light of Chiang's reply and the measures actually taken by him. This Government does not wish the note to contain anything of the nature of an ultimatum fixing a time limit.

KELLOGG

893.00 Nanking/25 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 2, 1927—noon.

[Received 2:10 p. m.]

319. Following from Davis who is now at Nanking on board destroyer *John D. Ford*.

"April 1st. Have ascertained practically all unburned mission buildings are now used as barracks. Standard Oil and Texas offices reported as yet unmolested. American flag still flying at former two installations. Liggett and Myers office and godown reported cleaned out.

So far, no soldiers punished and authorities maintaining fiction that outrages were by local rowdies. Looters executed. Soldiers treated people well even on 24th, showing foreigners were deliberately singled out for outrages.

Nationalists reported some four hundred wealthier Chinese whom they plan seizing as soon as pretexts can be worked up. One mission teacher's house already confiscated.

City more quiet but great administrative confusion."

MACMURRAY

893.00 Nanking/22 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, April 2, 1927—3 p. m.

118. Your telegrams numbers 317 and 318 of April 1, 8 p. m. and 9 p. m.; received April 2, 2:47 a. m. and April 1, 9:35 p. m., were both distributed for action in the forenoon of April 2.

The American Government authorizes you to have the following demands presented to General Chiang Kai-shek and Eugene Ch'en provided the four other chiefly interested powers join:

"A. (1) That adequate punishment be given to the commander of the troops which were responsible for the murders and personal

injuries and the indirect and material damage which was done, as well as to all persons who are found to have been implicated.

(2) That the commander in chief of the Nationalist army make a written apology including therein an express undertaking to refrain from violence and agitation in all forms against the lives and property of foreigners.

(3) That full reparation be made for personal injuries and also for the material damage done.

B. That, at the same time that the demands are presented, Chiang Kai-shek be informed through our consuls general that the interested powers will be compelled to take such measures as they deem appropriate unless he demonstrates to our satisfaction that he intends to promptly comply with these terms."

The American Government reserves its opinion with respect to what sanctions shall be employed if the use of sanctions becomes necessary.

KELLOGG

893.00 Nanking/27 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, April 2, 1927—5 p. m.

[Received April 4—5:20 a. m.]

Eugene Ch'en informed me this afternoon that he has just learned from London and other sources that conversations are taking place between the United States and Great Britain and Japan with a view to communicating demands in connection with the Nanking affair. He inquired "what is this all about?" I replied that I had no information on the subject. He stated that if any note is communicated he would not receive it unless it is addressed to him in his capacity as Minister for Foreign Affairs of the Nationalist Government and that he would not receive it should an identic note be despatched to any other government purporting to reprimand [*represent?*] the Chinese. He said that he wished to reaffirm what he has often said, that is, that the Nationalist Government desired to be on friendly terms with the American Government and he wished me to give you that assurance. He emphasized that he would not receive any note communicated by the powers simultaneously to other Chinese authorities.

My personal view is that since the Nationalist Government appears to be wholly responsible for the outrage at Nanking it would be advisable for the responsibility to be placed entirely on that Government. Accordingly, it would seem appropriate to address Ch'en independently in the matter, taking pains to have note or memorandum so worded as not to denote any act of recognition.

LOCKHART

893.00 Nanking/160 : Telegram

The Commander in Chief of the Asiatic Fleet (Williams) to the Office of Naval Operations, Department of the Navy

0003. This message refers to your despatch from the Sec'y of State sent on the 31st⁴³ and the Minister at Peking has just sent me a copy of the telegram he sent to the Sec State on the 29th of last month.⁴⁴

I believe that prompt action should be taken regarding the ultimatum which was proposed by the Minister and I also concur in regard to the terms set forth in the ultimatum. Since it is most likely that both the Cantonese Government and Chiang Kai-shek will try to blame each other for what has transpired I believe that it would be best if the ultimatum were given to both Chiang and the Cantonese Government. I also advise the cooperative action of the U. S., Great Britain, France and Japan in the matter. This is considered advisable since cooperation would produce results whereas single action on the part of but one government would most likely fail. Although the terms of the ultimatum may be rejected and drastic action would then be necessary I deem it advisable to face such a contingency while allied with some other powers instead of standing alone in the matter.

At a conference this afternoon by the French, British and Japanese Admirals on board the *Pittsburgh* a discussion took place with regard to the measures which could be possibly taken in case the terms of the ultimatum were rejected. It was a free discussion and no attempt was made to come to any decided agreement. Subsequent to the conference I formed the opinions that any action taken should be that to injure the prestige of the Cantonese in the eyes of the Chinese peoples. The injury of innocent civilians should be avoided. Action should also avoid the showing of any partisanship in the present civil war. (It is considered difficult to carry out this last.) Until the desired effect is obtained I would recommend that the following be carried out:

1. Capture of the Woosung forts and the destruction of the guns there; seizure of Cantonese naval vessels; withholding of the surtax which is now being paid to the Shanghai Cantonese authorities.

2. Progressive bombardment of the Yangtse River forts beginning at Kiangyin.

3. Arsenal at Hankow to be destroyed.

4. Military yamen, barracks, camps to be bombarded at selected points.

5. Blockade of portion of coast which is now under Cantonese control and this to be done as a last resort.

2355. Received at 08:07, 4 April, 1927.

⁴³ See telegram No. 111, Mar. 31, to the Minister in China, p. 170.

⁴⁴ Telegram No. 275, Mar. 29, p. 164.

S93.00 Nanking/27½

Memorandum by the Secretary of State

[WASHINGTON,] April 4, 1927.

The British Ambassador called on me late Saturday afternoon (April 2, 1927) at my home and wanted to know what steps we were going to take about a demand for apologies and reparations for the damages done to persons and property of Americans in Nanking. I told him, strictly confidentially, that we were authorizing MacMurray to join with the other Powers in making such demands substantially as MacMurray had recommended but cutting out any ultimatum with a time limit. I stated to the Ambassador that I did not want this to be announced from London but thought if it was done, it should be announced from all the capitals simultaneously.

S93.00 Nanking/33

The British Ambassador (Howard) to the Secretary of State

No. 225

WASHINGTON, April 5, 1927.

SIR: I have the honour to inform you that I am today in receipt of a telegraphic communication from His Majesty's Principal Secretary of State for Foreign Affairs, notifying me that the Representatives at Peking of the United States, Great Britain, France, Italy and Japan, have now agreed to recommend to their respective Governments that the following action should be taken in regard to the recent incident at Nanking.

(a) To take the matter up at once with Chiang Kai Shek through their Consul-Generals at Shanghai and present to him the following terms:

1. Adequate punishment of commanders of troops responsible for murders, personal injuries and indignities and material damage done; as also of all persons found to be implicated.
2. Apology in writing by Commander-in-Chief of Nationalist Army, including a written undertaking to refrain from all forms of violence and agitation against foreign lives and property.
3. Complete reparation for personal injuries and material damage done.

(b) Simultaneously to inform Chiang through Consul-Generals at Shanghai that unless he demonstrates to their satisfaction his intention to comply promptly with these terms, the interested Powers will find themselves compelled to take such measures as they consider appropriate.

It was also unanimously agreed concurrently to make an identic communication to Chen in the following terms: "On instructions of Government, I am directed by Minister to present to

you the following terms. (which are also being addressed to General Chiang, Commander-in-Chief of Nationalist Armies), for the prompt settlement of the situation created by the outrages against subjects committed by the Nationalist troops at Nanking on March 24th last, (here insert (a) and (b)).”

His Majesty's Government are for their part ready to agree to these recommendations subject to the two following provisos:

1. They fully appreciate the force of the view expressed by the Japanese Government that as there is reason for believing that Chiang is now endeavouring to form a nucleus of a moderate element directed against extremist faction of Nationalist Government which may constitute the one hope of China's future, it would be contrary to the interests of the Powers to humiliate him unduly at the present moment. His Majesty's Government strongly recommend, therefore, that the above demands be in the first place presented to Mr. Chen as representing the Nationalist Government, who must be held responsible for these outrages, and that a copy of the demands be communicated to Chiang by the Consular Officers at Shanghai.

2. In agreeing to the omission of a time limit in the formula (b) as above quoted, His Majesty's Government do so on the understanding that the other Powers accept in principle the application of sanctions in the event of the Nationalist Government refusing to give satisfaction to their demands.

His Majesty's Government further fully realise the difficulties in which the Japanese and other Governments may be placed in regard to the question of evacuating their nationals before any action is taken for the application of sanctions. They are quite prepared to allow ample time for complete evacuation and for such other measures as may be necessary for the purpose of safeguarding the lives and vital interests of other Powers. They earnestly hope, however, that instructions will immediately be issued, if this has not already been done, for carrying out evacuation and other similar measures with all despatch.

As regards the question of the sanctions to be applied, these should, in the view of His Majesty's Government, form the subject of immediate discussion among the five Powers. They would suggest that this can best and most expeditiously be done by authorising the naval authorities of the Powers in China to formulate an agreed plan of action, if necessary, by progressive steps, for the acceptance of their Governments.

In bringing the foregoing information to your notice, I am instructed to express the hope that the United States Government may see their way forthwith to send instructions to the United States Minister at Peking authorizing him to proceed on the lines of the

recommendations drawn up by the Representatives at Peking of the five interested Powers.

I would add that His Majesty's Representatives at Paris, Rome and Tokio are addressing similar representations to the Governments to which they are accredited.

I have [etc.]

ESME HOWARD

S93.00 Nanking/35 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, April 5, 1927—6 p. m.

127. A note has just been received from the British Ambassador in which he stated that his Government accepted the form of demands which the Department telegraphed to you. The following statement is also contained in the note:

[Here follows a quotation from note No. 225, April 5, 1927, from the British Ambassador, printed *supra*, beginning with the words "2. In agreeing to the omission of a time limit in the formula (b)" and continuing through the penultimate paragraph of the note.]

The Department completely dissents from the statement in the Ambassador's note that in agreeing to omit a time limit in formula (b) the British Government does so with the understanding that in principle the other powers accept the application of sanctions should the Nationalist Government refuse to give satisfaction to the demands made upon it. No implied agreement of any sort exists to this effect. The British Ambassador, in fact, presented to me a memorandum⁴⁵ in which it was stated that his Government reserved its opinion as to sanctions, and you will recall that in my instructions on the subject to you I also reserved, in behalf of the American Government, all opinion with respect to sanctions. That the American Government is under no obligation to use sanctions and is not ready as yet to confer on the subject with the other powers should be made perfectly clear.

KELLOGG

S93.00 Nanking/37 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, April 5, 1927—midnight.

[Received April 5—6:52 p. m.]

351. Department's telegram No. 118 of April 2, 3 p. m.

1. The Ministers of the interested powers conferred yesterday. Yoshizawa reported that the Japanese Government would accept the

⁴⁵ *Aide-mémoire* of April 2, p. 174.

formula proposed provided section B should be changed to read as follows: "To inform Chiang Kai-shek simultaneously through our consuls general that unless the Nationalist army demonstrates to our satisfaction their intentions to comply promptly, et cetera." My other colleagues and I felt warranted in accepting this change.

2. Yoshizawa then read an instruction from his Government instructing him to request several days' delay to allow time for an effort through Japan's consul general at Shanghai to induce Chiang to take the initiative in making an offer to meet the views of the powers. All of us, Yoshizawa included, regretted the delay, especially as a message had already been received from the Japanese consul general at Shanghai saying that he could see no prospect that Chiang would agree. We could not, however, take action until Yoshizawa received new instructions. He said he would request these at once.

MACMURRAY

\$93.00 Nanking/48

*Memorandum by the Secretary of State*⁴⁶

[WASHINGTON,] April 6, 1927.

The British Chargé, Mr. Chilton, came in to see me this morning at my request. He had yesterday presented a note from the British Government⁴⁷ saying that His Majesty's Government had agreed to the formula to be presented to Chiang Kai Shek on the understanding that the other Powers accepted in principle the application of sanctions in the event of the Nationalist Government refusing to give satisfaction to their demands. I informed him when he presented the note that we did not consider there was any such understanding at all; that the British Government had stated in a memorandum delivered to me on Saturday last⁴⁸ that it reserved its opinion on the question of sanctions; that in instructing Mr. MacMurray we told him the United States reserved that question; that we were under no obligation at all to endorse in principle sanctions. I read to him today this Government's instructions to Mr. MacMurray (our No. 127, April 5, 6 p. m.) and further informed him that as present advised we were not in favor of applying drastic sanctions to the Nationalists. He asked me if I knew what sanctions were proposed. I told him that I did not—only that I had received information

⁴⁶ The substance of the last three sentences of this memorandum was transmitted to the Minister in China in the Department's telegram No. 134, Apr. 7 (not printed).

⁴⁷ *Ante*, p. 179.

⁴⁸ Dated April 2, p. 174.

that blockading the coast and the destruction of the forts near Nanking had been proposed and talked about in Peking but that I did not understand that the Admirals had formulated any plan but, in any event, I did not wish the British Government to understand that we were committed to anything of the kind.

893.00 Nanking/50

Memorandum by the Under Secretary of State (Grew)

[WASHINGTON,] April 6, 1927.

While the Japanese Ambassador was calling on me today on another matter, the Secretary asked us to come into his room and he informed the Ambassador of the pertinent contents of the British note of April 5 concerning the proposed action in regard to the recent incident at Nanking. He then informed the Ambassador of the nature of our telegram No. 127 to Mr. MacMurray⁴⁹ and also of what he, the Secretary, had said to Mr. Chilton in their conversation today, namely, that the Department dissents entirely from the statement that in agreeing to the omission of a time limit in the Formula B contained in the British note, His Majesty's Government do so on the understanding that the other Powers accept in principle the application of sanctions in the event of the Nationalist Government refusing to give satisfaction to their demands. The Secretary had told Mr. Chilton and Mr. MacMurray that there was no implied agreement of any kind to this effect; in fact, the British Ambassador had given the Secretary a memorandum in which he stated that the British Government reserved its opinion on the subject of sanctions. The Secretary also had reserved on behalf of this Government all opinion as regards sanctions. Mr. MacMurray had therefore been instructed to make it perfectly clear that this Government is in no way obligated to apply sanctions and is not yet ready to confer with the other Governments on the question of sanctions. The Secretary then added that while it was, of course, impossible to foresee our action under future circumstances, we nevertheless at this moment had no intention whatever of applying or agreeing to apply any sanctions at all.

The Japanese Ambassador then told the Secretary that in a recent conversation between the British Ambassador and Baron Shidehara in Tokyo the former had pointed out the three kinds of sanctions which seemed possible: (1) blockade, (2) bombardment, and (3) occupation of certain areas. Baron Shidehara had replied that he

⁴⁹ Dated April 5, p. 181.

did not think that any of these three sanctions would prove effective and that they would result in greater disadvantage to foreigners than to the Chinese themselves. Mr. Matsudaira therefore believed that his Government was entirely in accord with our view that no sanctions should be agreed to or applied at the present time.

J[OSEPH] C. G[REW]

893.00Nanking/34

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, April 7, 1927.

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 225 of April 5, 1927, in which you stated that the British Government had been informed that the representatives at Peking of the United States, Great Britain, France, Italy and Japan had agreed upon the terms which should be recommended to their respective Governments as a basis for settling the situation growing out of the outrages perpetrated upon foreign consular officials and private citizens at Nanking by the soldiers of the so-called Nationalist Army.

Careful consideration has been given to your statement that the British Government is for its part prepared to agree to the recommendations of the representatives of the Powers at Peking provided, (1) that the note be in the first place presented to Mr. Chen as representing the Nationalist Government and that a copy be communicated to Chiang by the consular officers at Shanghai, and (2) that it is understood that the British Government, in agreeing to the omission of a time limit in the proposed representations, does so on the understanding that the other Powers accept in principle the application of sanctions in the event of the Nationalist Government refusing to give satisfaction to their demands. Consideration has also been given to your statement that it is the view of the British Government that the question of the sanctions to be applied should form the subject of immediate discussion among the five Powers, and that such discussion can best and most expeditiously be done by authorizing the naval authorities of the Powers in China to formulate an agreed plan of action, if necessary, by progressive steps, for the acceptance of their Governments.

The United States Government regrets that it cannot accept in principle the application of sanctions in the event of the Nationalist authorities refusing to give satisfaction to its demands. It does not consider that by sending a demand to the Cantonese military commander it is obligated in any manner to apply sanctions. In authorizing the Minister at Peking to join his colleagues in representations

to the authorities responsible for the outrages at Nanking, the Department instructed its Minister that it desired to reserve entire liberty of action in regard to the question of sanctions to be applied in case of failure on the part of those responsible to meet the demands. The United States is not prepared at the present time to confer with the other Powers on the question of sanctions.

Accept [etc.]

FRANK B. KELLOGG

893.00 Nanking/54

The British Ambassador (Howard) to the Secretary of State

No. 247

Sir Esme Howard has the honour to inform the Secretary of State that he has received a communication from His Majesty's Principal Secretary of State for Foreign Affairs, explaining as follows the attitude of His Majesty's Government with regard to the notes to be presented to the Cantonese Authorities by the Representatives in China of the United States, Great Britain, France, Italy and Japan.

Sir Austen Chamberlain states that, while His Majesty's Government are ready, in order to avoid unnecessary delay, and in the interests of solidarity, to waive their insistence on prior acceptance in principle of the application of sanctions, in case the demands of the Powers are not complied with by the Cantonese, and to authorize presentation of demands as these now stand, they still adhere to the suggestion originally made that the naval authorities of the Signatory Powers in China should examine the question of sanctions and should formulate an agreed plan of action for submission to their Governments.

His Majesty's Government hope therefore that the United States Government will authorize their naval authorities in China to join in making such an examination, so that a programme of sanctions may be in being in case it is found necessary at last to apply them.

Sir Austen Chamberlain declares that he entirely agrees with the objections Mr. Kellogg expressed to Mr. Chilton on the 5th instant⁵⁰ to any plan for the further bombardment of Chinese cities or ports, but he earnestly hopes that these objections would not be such as to exclude in advance the possibility of any collaboration by the United States in such sanctions as may be recommended, as practical and desirable, by the naval authorities of the five Powers in China.

WASHINGTON, April 9, 1927.

⁵⁰ See memorandum by the Secretary of State, April 6, p. 182.

893.00 Nanking/56 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, April 9, 1927—3 p. m.

[Received April 10—8:15 a. m.]

392. 1. The Ministers of the five interested powers met this morning. Lampson reported that he had been authorized to proceed with the demands concerning the Nanking affair without insisting that there be a previous agreement on the principle of sanctions among the interested powers.

2. The Japanese Government apparently was not inclined to agree to that principle in advance. I had not received the instructions which I had hoped for in response to my No. 368 of April 7, 11 a. m.⁵¹

3. I, and I believe my colleagues also, were convinced by conversations with Lampson that his Government is ready to assume the entire burden of action, if necessary, to obtain satisfaction for the affair at Nanking. Being confident that our demands and the threat accompanying them would not be allowed to remain the same [*sic*], I [agreed?] with my colleagues that we should have the demands delivered with as little delay as possible in the manner and form upon which we had already agreed (my No. 358 of April 5, noon [April 6, 7 a. m.]⁵¹), although the enforcement of the demands without the participation of the United States would be only less disastrous to American interests and position in the Far East than their remaining unenforced.

4. The following telegram was accordingly sent, *mutatis mutandis*, to our consuls at Hankow and Shanghai:⁵²

"Urgent. 3. April 9, 1 p. m. The five Governments have now approved the terms of the demands for the settlement of the Nanking outrages. You are hereby instructed to concert with your four colleagues and to go with them on Monday (April 11) and simultaneously present to Chiang Kai-shek the terms already in your possession. Identical instructions are being sent to Hankow. You are authorized to take note of any verbal observations that Chiang may make at the time of presentation of the demands but as we regard the demands as not arguable you should refrain from any discussion. The terms of the demands will be released for publication in Washington, Monday afternoon, and in the other capitals and in China on Tuesday (April 12th) accompanied by a statement which will be telegraphed to you separately but which is not for communication to Chiang. Please report urgently to the Legation and to the Department when you have presented the demands."

⁵¹ Not printed.⁵² Quoted telegram not paraphrased.

5. With reference to your telegram 121 of April 2, 8 p. m.,⁵³ please note the agreement reached concerning publication. I suggest that as it is not possible to foresee definitely the time at which the demands will be presented to Eugene Ch'en and Chiang Kai-shek, the Department make its announcement to the effect that instructions have been sent to the consuls to deliver such demands on April 11 if possible.

6. The following is the text of the public statement to be issued at the same time that the demands are made public.⁵⁴

"Upon the entry of the Nationalist forces into Nanking there were perpetrated against the foreign consuls and other residents by uniformed and organized bodies of troops of the Nationalist armies, during the morning and afternoon of March 24th, systematic outrages upon their persons and properties. A number of Americans, British, French, Italians and Japanese Nationals were murdered or wounded; many others were brutally assaulted and their lives jeopardized; they were robbed and treated with the utmost indignities; and women were subjected to nameless outrages. The American, British, and Japanese Consulates were violated and their national flags insulted. The houses and institutions of all foreigners resident in Nanking were systematically looted and in many cases burned.

In view of these manifestly premeditated assaults upon their official representatives and upon their nationals peacefully engaged in their lawful occupations, the Governments of the United States, Great Britain, France, Italy and Japan have found it necessary to formulate demands for satisfactory amends by the responsible Nationalist authorities. The terms thus agreed upon are studiously moderate, covering only the minimum of what would in the circumstances be done by way of honorable amends by any Government conscious of its own dignity and of its duty to other friendly peoples in the family of nations.

These demands are not made in derogation of the sovereignty or dignity of the Chinese people whom the interested Governments are glad to believe friendly and with whom they earnestly desire to continue and improve relationships of good will and cooperation. They are directed rather towards those influences, both foreign and Chinese, which made themselves responsible for the Nanking outrages by their activities in seeking to break up the existing friendship and to inflame the Chinese people to distrust, hate and violence towards the people of the friendly powers."

7. As a report was later received that Chiang Kai-shek had left Shanghai we sent the following telegram to our consuls there:⁵⁵

"4. April 9, 4 p. m. A report reaches us that General Chiang has left or is leaving Shanghai for Nanking. If correct you are authorized to present demands to his local military representative (believed to be General Pei) for immediate communication to Chiang."

8. Repeated to Tokyo.

MACMURRAY

⁵³ Not printed.

⁵⁴ Quoted statement not paraphrased.

⁵⁵ Quoted telegram not paraphrased.

893.00 Nanking/59 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 11, 1927—2 a. m.

[Received April 11—12:15 a. m.]

399. My telegram number 392, April 9, 3 p. m.

1. The following telegram has been received from consul general at Hankow:

"11. April 10, 1 p. m. Ch'en persistently refuses to receive myself and four colleagues for joint presentation of identic note and we have accordingly arranged to go separately at half-hour intervals beginning at 11 o'clock tomorrow morning unless otherwise instructed."

2. In the light of Ch'en's previous attitude and of recent indications that he is openly offering the Japanese inducements to hold aloof from association with the other powers interested in the Nanking affair, the diplomatic representatives concerned have tonight urgently instructed their consuls at Hankow as follows:

"9. April 10, midnight. Your telegram No. 11, April 10, 1 p. m.

(1) In view of Ch'en's refusal to receive simultaneously all five consuls, the five interested Ministers have agreed that the demands shall be presented in the form of a collective note signed by five consuls, the said note to be presented on behalf of all of them by the senior of the five interested consuls at the hour appointed for his reception.

(2) Covering note should be recited as follows: 'Under the instructions of [the] American, British, French, Italian and Japanese Governments, the undersigned are directed by the diplomatic representatives of their several countries in China to present to you the following terms (as in original text) for the prompt settlement of the situation created by the outrages against their nationals committed,' et cetera.

(3) Then follows the remainder of the note as at present drafted with the five signatures at the end."

3. Shanghai consuls are being instructed to present to General Pei identic note communicating the text of the revised collective note to Ch'en.

4. Please note these changes for the purpose of press hand-out.

5. Like my Italian and Japanese colleagues, . . . I have technically varied from my instructions in order to meet an urgent situation with regard to which it was quite impossible to consult with you in time.

MACMURRAY

893.00 Nanking/62 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 11, 1927—2 p. m.

[Received April 11—3:45 a. m.]

405. Following from American consul, Shanghai:

"5. April 9, 8 p. m. Chiang Kai-shek left for Nanking this morning."

MACMURRAY

893.00 Nanking/57 : Telegram

The Consul General at Shanghai (Gauss) to the Secretary of State

SHANGHAI, April 11, 1927—4 p. m.

[Received April 11—7:22 a. m.]

Demands on account of Nanking outrages were presented simultaneously at 3:15 o'clock this afternoon by the five consuls general to General Pei for immediate transmission to Chiang Kai-shek. No difficulty experienced in presenting demands. Pei made no comment except to say he would transmit the communication to Chiang.

Legation has been informed.

GAUSS

893.00 Nanking/60 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, April 11, 1927—4 p. m.

[Received April 11—10:27 a. m.]

Identic notes on Nanking affair handed to Eugene Ch'en without comment practically simultaneously by British, American, Japanese, French and Italian consuls general, respectively, at 3 o'clock this afternoon. Ch'en made no comment. Note handed by Japanese consul general was not signed. Legation informed.

LOCKHART

893.00 Nanking/183

*The Consul General at Hankow (Lockhart) to the Minister for Foreign Affairs of the Nationalist Government (Ch'en)*⁵⁶

HANKOW, April 11, 1927.

SIR: Under instructions of the American Government I am directed by the American Minister to present to you the following terms (which are simultaneously being communicated to General Chiang Kai-shek, Commander-in-Chief of the Nationalist Armies) for the prompt settlement of the situation created by the outrages against American nationals committed by Nationalist troops at Nanking on 24th of March last:

1. Adequate punishment of Commanders of the troops responsible for the murders, the personal injuries and indignities and the material damage done as also of all persons found to be implicated.

2. Apology in writing by the Commander-in-Chief of the Nationalist Army including an express written undertaking to refrain from all forms of violence and agitation against foreign lives and property.

3. Complete reparation for the personal injuries and material damage done.

⁵⁶ Copy transmitted to the Department by the consul general as an enclosure in his despatch No. 416, May 5; received June 6.

Unless the Nationalist Authorities demonstrate to the satisfaction of the interested Governments their intention to comply promptly with these terms the said Governments will find themselves compelled to take such measures as they consider appropriate.

I have [etc.]

F. P. LOCKHART

393.11/694

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Johnson)*

[WASHINGTON,] April 11, 1927.

The Chinese Minister called upon the Secretary by arrangement this morning and stated that sometime ago, in a conversation with Mr. Johnson, Mr. Johnson had informed him that the Department had been informed that the looting of American premises at Nanking was still going on. This was on March 28. The Chinese Minister stated that he had telegraphed this information to Eugene Chen at Hankow and had pleaded with Eugene Chen that he give instructions to have American property protected. The Chinese Minister stated that he had been requested by Eugene Chen to inform the Secretary that the Chinese General in Charge at Nanking was then in Hankow making his report; that he had shown the Chinese Minister's telegram to that General who had been instructed to return to Nanking and to give protection to Americans and their property.

N[ELSON] T. J[OHNSON]

893.00 Nanking/67 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Extract—Paraphrase]

PEKING, April 12, 1927—9 p. m.

[Received April 12—8:10 p. m.]

422. Legation's telegram No. 399 of April 11, 2 a. m. and telegram to the Department from consul general at Hankow April 11, 4 p. m.

1. The British consul general as senior has advised British Legation, with reference to delivery of demands to Eugene Ch'en in identic notes rather than in a collective note, that yesterday morning Ch'en sent word by his private secretary to Teichman, the British Minister's personal representative, that he refused categorically to receive a joint note. Teichman called on Ch'en and discussed the matter privately with him, with the result that Ch'en agreed to receive the consuls together on the understanding that identic notes should be presented rather than a joint note and that this should not establish

a precedent. My Italian colleague has received a message from his consul from which it appears that rather than risk delay in presenting the note they accede to Ch'en's terms. . . .

MACMURRAY

893.00 Nanking/79

*The British Ambassador (Howard) to the Secretary of State*⁵⁷

No. 263

WASHINGTON, April 14, 1927.

SIR: I have the honour to inform you that I am today in receipt of a telegraphic communication from His Majesty's Principal Secretary of State for Foreign Affairs, requesting me to convey to the United States Government a general explanation of the views of His Majesty's Government in regard to the situation resulting from the presentation of identic notes to the Cantonese Government on the subject of the Nanking outrages.

His Majesty's Government are of opinion that in the event of failure to satisfy the demands put forward in the notes in question, the application of sanctions should devolve upon all five of the interested Powers. His Majesty's Government cannot but believe that, in the event of such failure to comply with their just demands, the Governments of the other interested Powers will insist upon that measure of redress which they have thought it necessary to claim, seeing that otherwise all violent elements in China would be encouraged to defy the Powers and to continue to outrage their nationals and representatives. In the face of this common peril, His Majesty's Government most earnestly hope that the union of the five Powers may be preserved for they see in this union the best hope of preserving the peace and protection of rights in which all the Powers are equally interested.

With the above object in view, His Majesty's Representative at Peking has been instructed to endeavor to secure agreement among the Ministers of the five interested Powers on the following points: (a) acceptability or otherwise of the reply which the Cantonese will eventually return to the identic notes; (b) the character of sanctions to be applied in the event of failure to satisfy the conditions of redress put forward in the identic notes; (c) the time limit to be allowed for compliance with these conditions. Should it eventually prove necessary to proceed with the application of sanctions, His Majesty's Government are prepared to act in concert with the United States and

⁵⁷ This paper bears the notation: "Answered orally by Secretary in conversation with British Ambassador April 20, 1927. N. T. J[ohnson]." See memorandum by the Secretary of State, April 20, p. 204.

Japanese Governments even if the assent of the French and Italian Governments in the application of such sanctions cannot be secured. Finally, I am to add that should it unhappily prove impossible to obtain agreement between the interested powers regarding the measures to be adopted to meet a refusal of redress on the part of the Cantonese Government, His Majesty's Government will reserve to themselves their liberty to take such action as they may deem necessary in the circumstances.

I have [etc.]

ESME HOWARD

893.00 Nanking/76 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, April 14, 1927—3 p. m.

[Received 11:10 p. m.]

17 to Legation, April 14, 3 p. m. Following reply received through the office of Commissioner of Foreign Affairs from Eugene Ch'en this afternoon at 2 o'clock:

"1. The Minister of Foreign Affairs of the Nationalist Government is in receipt of the United States Government's note dated April 11th, 1927,⁵⁸ formulating terms 'for the prompt settlement of the situation created by the outrages against American nationals committed by the Nationalist troops at Nanking on 24th of March last.'

2. In reply to the American demand for 'complete reparations for the personal injuries and material damage done', the Nationalist Government are prepared to make good all damage done to the American consulate at Nanking on the ground that, whether or not such damage was caused by Northern rebels and others as stated in the preliminary statement issued by the Nationalist Government on March 31st last, the fact remains that the American consulate on Chinese territory has been violated.

3. As regards reparation for personal injuries to American nationals and other material damage done, the Nationalist Government are prepared to make all reasonable and necessary reparation except in case where it can be definitely proven that the same have been caused by the British-American naval bombardment of Nanking on March 24th or by Northern rebels and *agents provocateurs*.

4. The demand for the 'adequate punishment of commanders of the troops responsible for the murders, the personal injuries and indignities and material damage done, as also of all persons found to be implicated', necessarily assumes the guilt of the Nationalist forces who captured Nanking. While this guilt is contradicted in the preliminary statement issued on March 31st, a rigid government inquiry is being conducted in order to ascertain the exact facts of the case, including verification of the outstanding facts reported to the military council by General Cheng Chien, who took Nanking, that his

⁵⁸ *Ante*, p. 189.

forces rounded up and captured approximately thirty thousand Northern soldiers with rifles, besides thousands of camp followers, inside the city of Nanking itself. General Cheng Chien has also reported that a number of those implicated have been executed. The Nationalist Government proposes that the question of punishment should await the findings of either the Government inquiry now in progress or of an international commission of inquiry to be immediately instituted by the Nationalist Government and the United States Government. As the law of nations and the recognized practice of civilized state[s] prohibit the bombardment of a city on the territory of a friendly state, the Nationalist Government propose that the commission of inquiry shall also investigate the circumstances of the bombardment of the unfortified city of Nanking by the naval forces of the United States Government on March 24th last.

5. The demands for an 'apology in writing by the commander in chief of the Nationalist army including an expressed written undertaking to refrain from all forms of violence and agitation against foreign lives and property', is, so far as an apology is concerned, justified only on the proof of Nationalist guilt for the disturbances at Nanking. The Nationalist Government, therefore, propose that the question of an apology should also wait the determination of the question of guilt either by the Government inquiry now in progress or by the proposed international commission of inquiry. In the meantime, the Nationalist Government hereby repeat the expression of profound regret which the Minister for Foreign Affairs communicated to the United States Government directly it was reported to him that the American consulate at Nanking had been violated.

6. The Nationalist Government, as a reasonable governing body, naturally cannot countenance the use, in any form, of violence and agitation against foreign lives and property. Indeed, the protection of foreign lives and property has been repeatedly declared to be the settled policy of the Nationalist Government. The proper authorities of the Nationalist army will, of course, be instructed not only to give a written undertaking in this sense but to see that effective measures are taken to afford proper protection to foreign lives and property.

7. The Nationalist Government, however, would be lacking in candor if they should fail to regard and emphasize that the best guarantee for the effective protection of American and other foreign lives and property in China lies in the removal of the fundamental cause of the present troubled relations between Nationalist China and the powers who continue to sustain the regime of the unequal treaties. It is these inequitable treaties that constitute the chief danger to foreign lives and property in China, and this danger will persist as long as effective government is rendered difficult by foreign insistence on conditions which are at once a humiliation and a menace to a nation that has known greatness and is today conscious of renewed strength.

8. The Nationalist Government, accordingly, are prepared and ready to appoint delegates to negotiate with delegates of the United States Government a satisfactory settlement of issues and differences between Nationalist China and the United States of America on terms which, while assuring the legitimate interests of the latter,

shall modernize international intercourse between the two countries and define and work out their mutual interests and relations on the basis of equality and reciprocity. Wuhan, April 14th, 1927."

Department, American Legation, Peking, and consul general, Shanghai, informed.

LOCKHART

893.00 Nanking/82 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, April 14, 1927—6 p. m.

160. There is communicated to you below a brief summary of the more important part of the American press comment on the identic notes addressed to the Nationalist authorities concerning the Nanking outrages:

New York *World*, April 13, deplores united front on the Nanking incident and advocates reiteration of our willingness to negotiate new treaties; Philadelphia *Public Ledger*, 12th, approves absence of time limit in demands and states especially advantageous for United States to avoid definite commitments in China today; Baltimore *Sun*, 12th, states fortunately note was not ultimatum and questions whether we are not surrendering traditional independence of attitude in China adding it is not American destiny to side with either Russia or Great Britain against China; *Washington Post*, 12th, asserts American people will not be pleased with joint demands which constituted commitment by the American Government to join action against the Chinese if further violence occurs; *St. Paul Pioneer Express* [*Press*], 12th, regrets the United States did not play lone hand but glad present cooperation does not mean joint action later since the United States has kept free hand in matter of sanctions. This journal voices the rather widely held opinion that the Nanking incident was really trivial; *Cleveland Plain Dealer*, 12th, considers that now joint demands have been presented separate action is advisable for the United States which should do its own thinking (a commonly voiced opinion); *Des Moines Register*, 12th, warns that Nanking incident must not result in our being drawn into conflict for maintenance of British power in China; *Boston Herald*, 13th, insists demands not inconsistent with traditional American policy in China and points out our freedom of action preserved; *Richmond Times-Dispatch*, 13th, condemns demands which link the United States with questions of unity and sanctions; *Buffalo Evening News*, 12th, comments on fact that demands constitute recognition by the United States of two governments in China; *Boston Transcript*, 12th, points

out that the United States is not necessarily committed to specific intervention because of the fact that this country suffered similarly to other powers and presented similar demands.

General tone of press approves action taken but indicates generally a feeling that in taking action this Government should act alone. It is believed here that any determination at this time to take drastic action against China would call forth from the press hostile criticism of the Government.

KELLOGG

893.00 Nanking/86 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, April 15, 1927.

[Received April 16—1:40 p. m.]

American Legation, Peking; American consul general, Shanghai; and information commander in chief, Asiatic Fleet.

Number 19 to Legation: 15th, 11 a. m.

1. [Ch'en's] reply to Japan included the two following paragraphs which are not included in the American reply:

"As it is hardly creditable [*credible*] that the Japanese Government can, at the outset, desire a settlement of the Nanking incident other than through one of the means known to international law for the amicable settlement of state differences, the Minister for Foreign Affairs has to point out that the Japanese Government has not previously communicated with him on the subject and that, therefore, he must read the note under reply as initiating diplomatic negotiations for the prompt and friendly settlement of whatever grievance[s] and losses may have been sustained by Japanese nationals as a result of disturbance[s] at Nanking on March 24th last.

Relying on Japanese comprehension of [the historical] forces which today are operating in China just as similar forces operated in Japan within the past half century and emancipated her from the services [*servitudes*] of unequal treaties, the Minister for Foreign Affairs indulges in the hope that the Japanese Government, in their own final [*vital*] interest[s], will refrain from taking part in any active [*action or*] measure in the present situation calculated to interfere with the extension of Nationalist authority and power and the early unification of the whole of China under the Nationalist Government."

2. The following paragraph American note is quoted for [omitted from?] Japanese reply:

"As the laws of nations and the recognized practice of civilized states prohibit the bombardment of a city on the territory of a friendly state, the Nationalist Government propose that the commission of inquiry shall also investigate the circumstances of the bombardment of the unfortified city of Nanking by the naval forces of the United States on March 24th last."

3. In the reply to France and Italy the two paragraphs quoted above from the Japanese note were omitted, but in the reply to France the following paragraph appears:

"As the laws of nations and the recognized practice of civilized states prohibit the massacre of the citizens of a friendly state, the Nationalist's Government propose that the said international commission of inquiry shall investigate the circumstances of the outrage of the *Shameen* on June 23, 1925⁵⁹ when the armed forces of the French Government joined British armed machines in killing and wounding Chinese students and workers."

4. The reply to the Italian note substantially identical to that of Japanese except the two paragraphs first quoted in this message.

5. A copy of the British note was telegraphed to the British Legation yesterday afternoon.

Ch'en's note has not been well received by the Chinese community here. It is regarded as evasive and paving the way for prolonged discussion of the *gandiwak* [*sic*] and attempted to shift the responsibility. While the tone is more moderate than was generally expected, his attempt to play off the friendly gesture towards Japan is so typical of the present regime that it was not surprising. To sum up, foreigners in general regard the note as unresponsive and unsatisfactory.

LOCKHART

893.00 Nanking/77 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, April 15, 1927—5 p. m.

164. Lockhart's 17 to Legation, April 14, 3 p. m. For the present Department will make no public comment with regard to note and would desire that Legation make no public comment in Peking. Please cable us your comments and also information as to any textual differences in the replies made by Eugene Chen to the several Powers as well as the reaction in Peking.

GREW

893.00 Nanking/83 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, April 15, 1927—7 p. m.

[Received 8:55 p. m.]

440. 1. Consul General Lockhart has sent to you from Hankow by naval radio the text of Eugene Ch'en's answer to Lockhart's note of April 11 setting forth demands on the Nanking incident.

⁵⁹ See *Foreign Relations*, 1925, vol. I, pp. 749ff.

2. Aside from minor changes of wording Ch'en's reply to the British note is in substance identical with the reply to our note except that there is included in it a suggestion that the proposed international commission also investigate the incidents at Shanghai and Shameen in 1925 and the affair at Wanh sien last fall.

Ch'en's reply to the Italian note is very much like that to ours except that there is no occasion to refer to firing by warships or to the violation of consular privileges. As yet only half of the reply to the French note has been received. It seems to be practically the same as the reply to the Italian note. Only a résumé of the reply to the Japanese note has as yet been received by the Japanese Minister. From this summary it appears that the note has two paragraphs which are designed as "bait", as the Minister expresses it, for Japan; one of these paragraphs assumes that Japan will settle the matter by diplomatic negotiations and the other expresses confidence that it is not the wish of Japan to obstruct the Chinese revolution.

3. The Ministers of the interested powers agreed today to telegraph to their respective Governments the following identic recommendations: ⁶⁰

"After careful examination of the notes to their respective consuls from the Nationalist authorities in reply to the identic demands of April 11th, the five interested diplomatic representatives find themselves in complete accord in the conviction that the replies are wholly unsatisfactory and unacceptable. They constitute a transparent maneuver designed to stultify the demands by producing delay or disunion among the five interested powers. The notes do not meet the demands but attempt to obscure by irrelevant matters the plain issue of amends for the Nanking outrages. The sole point in which they profess to accede to the demands, that is, in the assurance of proper respect for the lives and interests of foreign nationals, is based upon protestations of Nationalist policy; with regard to that policy experience has shown the danger of reliance upon the Nationalist authorities, dominated as they are by Communist influences whose activities are directed towards delaying indefinitely any such adjustment of difficulties as the powers have been honestly seeking and making impossible the continuance of normal friendly relations between China and the foreign powers. Within Nationalist territory, the American and British Governments have found it necessary to withdraw their nationals to places where they can be protected or evacuated under cover: and in somewhat less degree the same is true of the French, Italian and Japanese Governments. In Hankow itself, the capital of the Nationalist regime, practically all foreign business has been compelled to close and all foreigners forced to leave except a small number encouraged by protection of naval force to remain though under precarious conditions. And even in the notes themselves the assurance of protection for foreigners is qualified by the veiled threat contained in the irrelevant reference to the so-called

⁶⁰ Quotation not paraphrased.

unequal treaties as constituting still a danger to foreign lives and property in China. The five diplomatic representatives are absolutely clear in their own minds that any attempt to negotiate or argue on the basis of these notes would merely play into the hands of [Eugene Ch'en] . . . They therefore join in recommending to their respective Governments that they be authorized to present to Eugene Ch'en through their respective consuls identic notes of the following tenor:

'On April 11th the representatives of the American, British, French, Italian and Japanese Governments presented in identic notes certain terms for the prompt settlement of the situation created by the outrages against their nationals committed by the Nationalist troops at Nanking on 24th March.

To these identic notes the Nationalist authorities have not returned an identic reply but have answered such [*each?*] representative separately and in varying terms calculated rather to serve propagandist ends than to terminate the incident which has arisen. Not one of the demands made has been accepted unequivocally by the Nationalist authorities. Reservations have been attached to the acceptance of each one.

The terms presented in the identic notes of 11 April were not proposals open to discussion but the basic demands which the powers concerned are determined shall be carried out. Only after the Nationalist authorities have signified with a plain and unqualified affirmative that they are prepared promptly and completely to comply with these terms can any discussion regarding details take place.

Unless, therefore, the Nationalist authorities state unequivocally and without delay that they intend to proceed to the integral fulfillment of the terms presented, the Governments concerned will be obliged to consider such measures as may be necessary to obtain compliance.'

We also recommend that simultaneously with the delivery of this note the several Governments should make, and that the Ministers be authorized jointly to make, public in China a statement based on the above."

4. Each of us in agreeing to these recommendations did so with the understanding that they are without prejudice to the position of his own Government. In particular, I reserved freedom of action on the part of the Government of the United States in regard to the matter of sanctions.

MACMURRAY

893.00 Nanking/90 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, April 17, 1927—3 p. m.

[Received April 17—10:26 a. m.]

454. My 440, April 15, 7 p. m. In the hurry of preparing our joint recommendations with respect to the reply by Eugene Ch'en to the notes on the Nanking affair, the Ministers of the five interested powers failed to comment upon the following two points on which our discussions showed that we agreed:

1. Ch'en's reply contemplates the establishment of five separate international commissions to investigate the same facts, and this is im-

practicable. Apparently the suggestion is designed to cause dissension among the five interested powers.

2. To establish such international commissions would result in giving the Nationalist regime recognition by all the five powers as a consequence of the Nanking outrages. None of the powers have so far given such recognition to this regime.

MACMURRAY

893.00 Nanking/92 : Telegram

The Consul at Nanking (Davis) to the Secretary of State

NANKING, April 17, 1927.

[Received April 18—9:20 a. m.]

From American consul, Nanking, via consul general, Shanghai, information American Minister, Peking, and consul general, Hankow.

April 17, midnight. The following points are called to the Department's attention in connection with Eugene Ch'en's note of April 14, 2 p. m.:

First. With reference to paragraphs 3 and 4:

(1) Capture of Northern troops in Nanking unquestioned but has no bearing on the question, as my personal observations, those of British consul general, and sworn statements by many reliable Americans, prove outrages actually committed by Hunanese in Nationalist uniform often under officers.

(2) All information shows only known executions were of a few rickshaw coolies while no guilty Nationalist soldiers were punished.

(3) As to the "bombardment of a city on the territory of a friendly state" the military forces of the "friendly state" at the time of the naval barrage had actually looted the American consulate, insulted the flag, killed and wounded Americans, attempted to rape and had otherwise mistreated American women, and were at the moment firing upon the American consul, his wife and small children, knowing them to be such. Further, it is amply proven that the naval barrage was the main thing which saved the lives of all foreigners, including Americans.

Second. With reference to paragraph 5: (1) Guilt of Nationalist Government is also established by proven perpetration of outrages by its uniformed [soldiers] often accompanied by officers, by the failure of Ch'eng Ch'ien to take any effective steps for the protection of Americans until after both the naval barrage on March 24th and the renewing of [apparent omission] on March 25th, by impudent and evasive reply to the demands of the naval officers, by the unrestrained looting of American property by Nationalist soldiers for many days after the incident, by the illegal occupation of American property even now by Nationalist troops, and by the repeated firing upon American-flagged vessels by Ch'eng Ch'ien's forces up to and including today.

Third. With reference to paragraph 6: If Nationalist Government is a "responsible governing body" why was the 15th Nationalist division permitted to drive American missionaries at Luchowfu from their homes on April 7th, forcing them to escape like hunted animals, and why does this seizure of American property continue until the present?

Fourth. With reference to paragraph 7: The outrage was not caused by question of "unequal treaties" but by the giving up of the Nationalist Government to the domination of Russian Communists, . . .

Fifth. With reference to paragraph 8: As the guilt of the Nationalist Government is unquestionably established, I respectfully but strongly urge that, instead of recommendations, a time limit be set and that a full compliance with the demands of April 11th within the time [apparent omission] outlined by Williams to the Department of the Navy on April 3rd⁶¹ be carried out, adding the destruction of (1) all forts at or near Nanking and those at Kiangyin, and (2) the Nanking arsenal and powder factory.

As full guilt has already been established beyond a doubt and since Ch'en is only the powerless mouthpiece of extreme Communist element, the negotiations he proposes would only produce evasions and delays.

I strongly fear unless firm action is promptly taken accompanied by a reassertion of friendliness to all law-abiding Chinese that a second and more dangerous Boxer uprising will soon be upon [apparent omission]. Unless Chiang Kai-shek openly and finally breaks with Hankow, meeting of issue is no longer with the Nationalists but with Russian-directed Communists.

DAVIS

893.00 Nanking/94

Memorandum by the Under Secretary of State (Grew)

[WASHINGTON,] April 18, 1927.

The French Ambassador read to me a telegram from his Government setting forth the sanctions proposed at the meeting of admirals in Shanghai in case the reply of Eugene Chen to the foreign demands should be unsatisfactory. The telegram went on to say that the French Government, in case the principle of sanctions should be adopted, felt that nothing should be done to hamper Chiang Kai Shek in his efforts to maintain order and that the sanctions should be applied so far as practicable in Hankow rather than in Nanking. The French Government did not, however, in any case desire to take a

⁶¹ See telegram from the commander in chief of the Asiatic Fleet to the Office of Naval Operations, received Apr. 4, p. 178.

lead in the determination of the question of sanctions, although it would be ready to follow any action unanimously agreed to by the five Powers. The French Government then instructed the Ambassador to ascertain the views of this Government as to (1) the recommendations of the admirals, (2) the reply of Eugene Chen, and (3) the nature of the answer that should be made to Eugene Chen's note. I said to the Ambassador that as regards point (1) the American admiral had attended the meeting of the admirals in Shanghai that had been called at the initiative of the British admiral, but that he had no instructions to discuss sanctions and had merely reported the results of the meeting. The attitude of this Government is that we are not yet ready to consider the question of sanctions. As regards points (2) and (3), I said that the Secretary, who had returned to Washington this morning, was now studying Eugene Chen's reply and had not yet come to a decision as to the nature of the answer which should be made to him. I said that our first reaction was that the note was not wholly unconciliatory as Chen had proposed an impartial investigation of the incidents at Nanking and had offered reparation and apology in case of substantiation. I said that we were still in serious doubts as to the wisdom of applying sanctions as we felt that such action would merely pour oil on the flames of the antiforeign sentiment in China and would render the situation more difficult than ever. There was also the question of American public opinion to be considered and we were convinced that the country at large would be wholly opposed to applying any sanctions whatever. I repeated nevertheless that we had not yet formulated our attitude towards Eugene Chen's note nor had we yet planned the nature of our reply. I said to the Ambassador that in answering his Government's telegram I thought it would be well to make this clear and that I would then inform him as soon as we were in a position to make some definite statement with regard to our attitude.

J[OSEPH] C. G[REW]

893.00 Nanking/108

*The British Ambassador (Howard) to the Secretary of State*⁶²

No. 268

WASHINGTON, April 18, 1927.

SIR: I have the honour to inform you that I am in receipt of a communication from His Majesty's Government, notifying me that

⁶² This paper bears the notation: "Answered orally by Secretary in conversation with British Ambassador. 4/20/27. N. T. J[ohnson]." See memorandum by the Secretary of State, Apr. 20, p. 204.

His Majesty's Representative at Peking, after consultation with his United States, French, Italian and Japanese colleagues, has recommended that he be authorised to present to Eugene Chen, through His Majesty's Consul at Shanghai, an identic note of the following tenor:

"On April the 11th the Representatives of the United States, British, French, Italian and Japanese Governments presented in identic notes certain terms for the prompt settlement of the situation created by outrages against their Nationals committed by Nationalist troops at Nanking on March the 24th.

"To these identic notes the Nationalist authorities have not returned an identic reply but have answered each one separately and in varying terms calculated rather to serve propagandist ends than to terminate the incident which has arisen. Not one of the demands made has been accepted unequivocally by the Nationalist authorities. Reservations have been attached to the acceptance of each one.

"The terms presented in the identic notes of April the 11th were not proposals open to discussion but basic demands which the Powers concerned are determined shall be carried out. Only after the Nationalist authorities have signified with a plain and unqualified affirmative that they are prepared promptly and completely to comply with these terms, can any discussion regarding details take place.

"Unless, therefore, the Nationalist authorities state unequivocally and without delay that they intend to proceed to the integral fulfillment of the terms presented, the Governments concerned will be obliged to concert in such measures as may be necessary to obtain compliance."

His Majesty's Government point out to me that the last sentence of the proposed identic note cited above clearly presupposes that the five Governments approving the despatch of the reply in these terms to the communications addressed to them by Eugene Chen on the subject of the Nanking outrages are prepared in the last resort to concert active measures to enforce their demands for redress by the application of sanctions.

On the understanding that this is the view and intention of the other Governments, and that they will all instruct their representatives at Peking to reply in these terms to the Cantonese Government through their Consuls at Hankow, His Majesty's Government have notified His Majesty's Representative at Peking that he is authorised to join in the step contemplated.

In bringing the above information to your notice I am desired, on instructions from His Majesty's Government, to express the hope that the United States Government, for their part, will issue similar instructions to their Representative at Peking.

I have [etc.]

ESME HOWARD

893.00 Nanking/159

The Chief of the Division of Far Eastern Affairs (Johnson) to the Secretary of State

[WASHINGTON,] April 19, 1927.

MR. SECRETARY: The British Ambassador ask[ed] me to say before leaving the Department he received a telephone message from Mr. Hopkinson from the Embassy to the effect that telegraphic instruction had been received from London directing the British Ambassador to suspend action in regard to the note which he presented to you this morning.⁶³ The Ambassador stated to me that he had already presented a note to the Secretary referring to the recommendation of the Diplomatic body at Peking as to the text of a reply to Eugene Chen and indicating Great Britain's readiness to join in such a reply if the other power[s] were ready.

N[ELSON] T. J[OHNSON]

893.00 Nanking/97 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, April 20, 1927—9 p. m.

[Received April 20—12:50 p. m.]

462. My No. 440, April 15, 7 p. m. My British, French and Italian colleagues have been authorized to proceed in accordance with recommendations in my telegram under reference, subject to agreement by all five of the interested powers. My Japanese colleague has not yet received his instructions. I hope instructions may be sent to me as soon as possible so that agreement and action may be expedited. The Nanking outrages occurred four weeks ago tomorrow and each day's delay lessens the possibility of a satisfactory settlement by peaceful means.

MACMURRAY

893.00 Nanking/84 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, April 20, 1927—3 p. m.

176. Your telegram No. 440 of April 15, 7 p. m. The Department does not approve your joining in the identic note suggested in your

⁶³ Memorandum of Apr. 18, printed *supra*.

telegram under reference, as information from China received through the press and other sources indicates that an effort is being made by the moderates to drive the radicals from the control of the Chinese Nationalist Government. The feeling in the Department is that it would weaken the moderate leaders if demands were pressed at this time and would perhaps drive them to the side of the extremists. We should not be hurried into action which may prove dangerous to our citizens and which may not be effective in any event, as it is doubtful whether the Kuomintang leaders could, divided as they are, meet the demands even if they were disposed to do so. Certainly such action would lack support here.

2. In the final sentence of the note suggested in your telegram under reference there is a specific threat that sanctions will be applied if the Nationalist authorities fail to meet the demands. The Government of the United States is not now prepared to use sanctions nor to commit itself on the subject. It is the feeling of the Department not only that it might prove dangerous to our citizens to invoke sanctions in the present time and circumstances but also that sanctions would not prove effective as they would have to be used against a divided Kuomintang Party. There is also serious question as to the ultimate effectiveness of the use of sanctions applied to Chinese national property which possibly is temporarily under the control of an irresponsible faction.

3. As the texts of the replies to the notes of the several powers are different, it is the Department's opinion that each power should make a separate reply, the notes only being identic on those questions where the interests of the powers are the same. The Department has under consideration a form of reply to use should this Government deem it necessary or wise to discuss the matter further with Eugene Ch'en.

KELLOGG

893.00 Nanking/98

Memorandum by the Secretary of State

[WASHINGTON,] April 20, 1927.

The British Ambassador called today at my request to discuss the note of the British Government to me of April 14, 1927, in relation to sanctions and the British note of April 18, 1927, in relation to the subject of the five Powers presenting an identic note to Eugene Chen in reply to his answer to the five Power protest. I said that I had taken these two notes to the Cabinet Meeting intending to discuss them fully and was explaining the notes and my views (substantially as I afterwards explained to the British Ambassador) when I received

the memorandum from Mr. Johnson stating that the British Ambassador had just received a telegram from his Government asking him to suspend action on the note of April 18, 1927; that I could not say that the Cabinet definitely passed on it but from all that was said, I judge there was a general agreement that my views were correct; that I did not know whether the British Government desired me now to answer the notes or not; that I had seen in the morning *New York Times* a statement from London reading as follows: "Domestic strife between the Cantonese is regarded by British official circles as more important at present than the question of presentation of another note by the five Powers". The Ambassador said that he judged that to be true and he thought that accounted for it and, in view of that, he did not know that any further answer was necessary; that he had telegraphed, however, to his Government the substance of what I said yesterday. What I told the Ambassador yesterday was in the main what I reported to him today. I told him that it was now evident that there was a split in the Nationalist organization between the Radicals and the Moderates, Chiang Kai Shek apparently being the leader of the Moderates; that it seemed to me that to send a further demand at this time might tend to drive Chiang Kai Shek and the Moderates into the arms of the Radicals and would really do no good and might do a great deal of harm to foreigners in various parts of China; that it seemed to me best under the circumstances for the present to let Eugene Chen's note remain unanswered and await developments. The Ambassador agreed with me and said he believed that the notice in the *New York Times* was a correct explanation.

I told him the same argument applied to sanctions. Against whom would we apply sanctions? If they could be applied against the really guilty parties, that might make a difference; if there was a Government controlling China and its military forces which could be punished by punitive expeditions, that might make a difference; but neither condition existed; that it was probably impossible to lay hands and punish the guilty parties and why apply sanctions to the people of China by destroying property that simply was temporarily in the hands of certain military authorities. He agreed with me and said that was exactly what he thought himself. He wanted to know if he could say to his Government that the Cabinet approved my views. I told him I did not press for a definite answer because I had received the memorandum but that I had made my statement to the Cabinet and, in the main, my judgment was that we were in general agreement. I told him, however, that that was confidential.

893.00 Nanking/99

The British Ambassador (Howard) to the Secretary of State

No. 277

WASHINGTON, April 20, 1927.

SIR: I have the honour to refer to my note No. 268 of the 18th instant, informing you, on instructions from His Majesty's Government, of their attitude with regard to the last sentence of the identic note which the Representatives at Peking of the Five Powers concerned had recommended to their respective Governments for presentation to Eugene Chen.

I now have the honour to inform you that His Majesty's Government have informed their Representative at Peking that they approve the proposed terms of the identic note and authorise him to concert with the Representatives of the other Powers concerned in the presentation of joint or identic notes and in making any minor modifications required to secure an agreement.

His Majesty's Government continue to assume that the Five Powers will insist on the fulfilment of the terms which all were agreed in presenting and consider that the character of sanctions to be applied in case of necessity can be separately discussed amongst them. At the same time, however, for the sake of maintaining united action amongst the Five Powers, His Majesty's Government, for their part, are prepared either to accept the identic note in question with the omission of the last sentence, or as it stands, leaving aside for the present the question of the eventual application of sanctions.

I have [etc.]

ESME HOWARD

893.00 Nanking/100

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, April 22, 1927.

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 277 of April 20, 1927, in which you refer to your note No. 268 of the 18th instant. In the latter note you informed me of the attitude of the British Government toward the text of a new identic note which the diplomatic representatives of the British, United States, Italian, French and Japanese Governments at Peking had recommended that they be authorized to present to Eugene Chen in reply to the notes delivered by him to the representatives of the above mentioned Powers regarding the settlement of the situation arising out of the outrages on foreigners committed by Nationalist soldiers at Nanking on March 24. In the conversation which I had with you yesterday⁶⁴ on this subject I explained to you the attitude

⁶⁴ The reference is probably to the conversation of Apr. 20 reported in the memorandum by the Secretary of State, Apr. 20, p. 204.

of this Government and also told you of the instruction which had been sent to the American Legation at Peking.⁶⁵ In your note under acknowledgment you state that the British Government has informed its representatives at Peking of its approval of the proposed terms of the identic note and that it has authorized him to join with the representatives of the other Powers concerned in the presentation of joint or identic notes and in making any minor modifications required to secure an agreement. You state that the British Government continues to assume that the five Powers will insist on the fulfillment of the terms which all were agreed in presenting, and that it considers that the character of sanctions to be applied in case of necessity could be separately discussed amongst them. You conclude by stating that the British Government for its part is prepared either to accept the identic note in question with the omission of the last sentence, or as it stands, leaving aside for the present the question of the eventual application of sanctions.

As explained to you orally yesterday this Government feels that nothing is to be gained by haste in the handling of this matter. Information received in Washington through agents of the Government of the United States as well as from the press indicates that the so-called Nationalist Government to which the original demands of the Powers were presented, and which was held responsible for the outrages at Nanking, has been disrupted by conflict between what are understood to be its moderate and radical elements. In view of the situation thus brought about this Government is not convinced that any good purpose would be served by further pressing the demands at this time upon Eugene Chen, especially when it seems questionable as to whether he and his organization have the authority over Nationalist military forces necessary to enable them to comply with the demands.

As regards the question of the application of sanctions, as I stated to you yesterday, this Government is not prepared at this time to apply sanctions nor is it prepared to consider the question now. It would appear to this Government to be very questionable as to whether sanctions could be applied at this time with any effectiveness in territory controlled by Chinese Nationalists, as sanctions would have to be applied against a divided group.

The Government of the United States believes that the demands which were presented to Eugene Chen were clear and direct and that no harm will come if the decision further to press them is not made until the Powers can be more certain as to the direction which events will take in China.

Accept [etc.]

FRANK B. KELLOGG

⁶⁵ Telegram No. 176, Apr. 20, 3 p. m., p. 203.

893.00 Nanking/106 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, April 22, 1927—6 p. m.

[Received April 22—11:10 a. m.]

474. The Ministers of the four other interested powers agreed at meeting this morning to recommend to their respective Foreign Offices that their Governments act on the basis of the recommendations which were stated in my telegram No. 440 of April 15, 7 p.m.

MACMURRAY

893.00 Nanking/111

Memorandum by the Under Secretary of State (Grew)

[WASHINGTON,] April 23, 1927.

The Italian Ambassador read to me two telegrams from Mussolini, who had instructed him to keep in touch with this Government concerning developments in China. The first telegram referred to the demands made by the five Powers upon Eugene Chen and upon Chen's reply and then set forth the further note to Chen proposed by the Ministers in Peking in which Chen is called upon to give an unequivocal answer to the demands of the Powers and threatening him with definite sanctions in the event of his failure to do so satisfactorily. Mussolini had instructed the Italian Minister to Peking to agree to this note if it should be accepted by the other four Powers and to use his best efforts to bring about unanimous action.

A second telegram from Mussolini stated that the British Ambassador in Rome had called upon him and had said that in order to bring about unanimity of the five Powers (obviously referring to the United States), the British Government was willing to agree to the despatch of the proposed second identic note to Eugene Chen omitting all reference to sanctions in the event of noncompliance. Mussolini had instructed his Minister in Peking that he perceived no objections to this and authorized the Minister to join with the other Ministers in presenting the identic note with or without reference to sanctions.

The Ambassador then asked me to tell him our attitude towards the recommendations of the Ministers. I thereupon read to him pages 3 and 4 of our note to Sir Esme Howard of April 22 in which we expressed our feeling that nothing is to be gained by haste in the handling of this matter and that no good purpose would be served by further pressing the demands at this time upon Eugene Chen, especially when it seems questionable whether he and his organization have the authority over the Nationalist military forces necessary to enable them to comply with the demands. As regards the

question of sanctions, this Government is not prepared at this time to apply sanctions nor is it prepared to consider the question now. We believe that the demands which were presented to Eugene Chen were clear and direct and that no harm will come if the decision further to press them is not made until the Powers can be more certain as to the direction which events will take in China.

J[OSEPH] C. G[REW]

893.00Nanking/109 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, April 23, 1927—4 p. m.

[Received April 23—3:50 p. m.]

479. Your telegram No. 176, April 20, 3 p. m.

1. I venture to place before you briefly certain eventualities which to me appear to be inevitable if our Government should discontinue actively cooperating with the powers which are principally concerned in China, definitely giving up that leadership as to Chinese affairs which we assumed among the powers at the Washington Conference.

2. At that time the American Government imposed upon the powers concerned its ideas respecting international treatment of China and brought those powers to join together formally in a co-operative policy of self-denial regarding China, which established definitely a change from that firmly individualistic policy that had theretofore been followed. Also, Great Britain gave up the Anglo-Japanese alliance, which, other than her own strength, had in her opinion been the greatest single safeguard of her position in the Far East. Needless to say, it was not because of quixotic idealism that Great Britain and Japan altered their policies as to China, but because, in the case of Japan there was realization that her policy of aggression was increasingly disadvantageous and was rendering her position more and more difficult in the concert of world powers, and, in the case of Great Britain, American desires in regard to international policy in Far East were underwritten because of a quite natural belief that we as proponents of the Washington treaties concerning China would continue the leadership assumed at Washington. In her post-war condition of exhaustion she felt this to be most desirable and, as between the United States and Japan, the better course. More and more during the period following the Washington Conference, and increasingly of late, both Great Britain and Japan have become disappointed and disillusioned over the failure of the United States to maintain this leadership in the co-operative policy we had inaugurated. It must be realized that they will

reconsider their entire position relative to a state of affairs they at last have come to understand on the basis of its facts and that they appreciate the necessity of meeting the situation resolutely and immediately.

3. Having this in mind, it is my conviction that Japan and Great Britain must inevitably be thrown into intimate association in the Far East again, if not thrown into a formal alliance, by our refusal to proceed in regard to Nanking and other vital questions with firmness and to cooperate with the powers which are concerned. This means scrapping what our Government succeeded in achieving over a long period of years and in embodying for the mutual advantage of China and the United States in the nine-power treaty on principles and policies. It seems certain to me that if the United States withdraws from cooperating actively with Great Britain and Japan they will find themselves impelled to join together in a policy on China which will necessarily exclude us and therefore will not be restrained by our leadership or even by our active participation. To state the fact bluntly, we have heretofore taken the leavings from the others' tables. Our opportunities for advantages in China, commercial and other, have been due to the forceful action by other powers in China. If I judge rightly, this time there will not be any crumbs left for us.

4. Therefore, before it is definitely decided to do what public opinion in the United States has been clamoring for—to withdraw from international cooperation in China—I trust that most serious consideration will be given to the above-outlined ideas and to the far-reaching consequences, at present and in the future, of our refusing whole heartedly to join in common action in China for common purposes.

5. Repeated to Tokyo for confidential information.

MACMURRAY

893.00 Nanking/110 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, April 25, 1927—6 p. m.

187. Your No. 479, April 22 [23], 4 p. m.

1. In your telegram the conclusions you suggested appear to be based upon deductions which Department's telegram 176, April 20, 3 p. m., had not intended, as it was solely directed to the question of the draft note you suggested in your No. 440, April 15, 7 p. m., and was not directed to the question of the policy of the United States with regard to the powers and China.

2. At no time has this Government determined to withdraw entirely from cooperation with other powers with regard to China.

It is continuing to abide by the commitments which were made at the Washington Conference respecting cooperation with the other powers in the revision of treaty tariff provisions and consideration of measures contingent upon abolition of extraterritoriality if possible. The fact that this Government is ready to give protection to American life and property in China, where it is possible to give such protection, is demonstrated by the presence of a considerable American naval force at the present time in Chinese waters and the presence of a considerable force of marines in Shanghai, and the United States Government, although necessarily reserving to itself full control of its military forces, is cooperating in joint plans to protect foreign life and property.

3. At this time the question is not one of relinquishing our leadership in regard to Chinese matters. Leadership inheres in moderation as well as forceful action, and it is the feeling of the Department that at this time you should use your influence in behalf of moderate action. It is not the belief of the Department that the commercial advantage of the United States in China was obtained by reason of forceful action of the powers or that trade and commerce in China is about to be parcelled out through military action to various countries. It believes that the time has passed when foreign countries can take over Chinese territory or maintain by force special spheres of influence in trade. At present the question is whether the United States will agree with other powers to serve upon Eugene Ch'en another note which, in case he fails to comply, will further commit us to the use of force. To me it seems inadvisable for us to send to Eugene Ch'en a less drastic note than the first; and to make demands which would make it impossible for us not to apply sanctions seems more inadvisable. When the Department sent you instructions 176, April 20, 3 p. m., I was trying to avoid further action on the Nanking matter which would commit this Government inevitably to apply sanctions, which, it is the Department's belief, would both be inefficacious and dangerous.

KELLOGG

893.00 Nanking/154

Memorandum by the Secretary of State

[WASHINGTON,] April 25, 1927.

The Japanese Ambassador called this morning at eleven o'clock to discuss with me the proposed note in reply to the answer of Eugene Chen. He said he had received a message indicating that his Government felt that it would be unfortunate for there to be any split between the Powers over this matter, that a failure of the Powers to act together would have an unfortunate reaction upon the Chinese authorities. I

assured him that this Government had at no time stated that it would not cooperate with the other governments in Chinese matters; that the question now was as to what action we should take in reply to the note of Eugene Chen. On this matter the United States had stated to Mr. MacMurray that this Government was not willing to join in the note recommended by the Ministers of the Powers at Peking and that was the extent of our instructions. Further we were not willing to apply sanctions or to discuss the subject of sanctions at this time. The Japanese Ambassador said that that was exactly the attitude of his Government. They were not willing, he said, to join in the proposed note and not willing to apply sanctions.

He then proposed a substitute note, which is as follows:

"On 11 April the Representatives of the American, British, French, Italian and Japanese Governments presented in identic notes certain terms for the prompt settlement of the situation created by the outrages against their nationals committed by the Nationalist troops at Nanking on March 24.

"To these identic notes the Nationalist Authorities have not returned an identic reply, but have answered each representative separately and in varying terms which are not calculated to ensure speedy settlement of the incident which has arisen. Not one of the demands made has been accepted unequivocally by the Nationalist Authorities. Reservations have been attached to the acceptance of each.

"The terms presented in the identic notes of eleventh April were not proposals open to discussion but the basic demands which the Powers concerned are determined themselves be carried out.

"Only after the Nationalist Authorities have signified with a plain and unqualified affirmative that they are prepared promptly and completely to comply with these terms can any discussion regarding details take place.

"The Governments concerned therefore feel obliged to request that the Nationalist Authorities will state unequivocally and without delay their intention to proceed to the integral fulfillment of the terms presented."

In going over the matter, I pointed out to him that the following clause was not strictly accurate as applied to the reply to the United States—"Not one of the demands has been accepted unequivocally by the Nationalist Authorities. Reservations have been attached to the acceptance of each". I told him that so far as the violation of the American Consulate in Nanking was concerned, the so-called Nationalist Government had admitted the violation, offered reparations whether the violation was by Nationalist soldiers or the Northern soldiers, that the Consulate was upon Chinese territory and was entitled to protection; that I did not consider this clause as unequivocal and that I could not say that reservations had been attached to this statement. Another provision of the reply was that the Chinese Authorities were willing to make reparations for any damage done except

where it was caused by the bombardment by the British and American vessels or by Northern soldiers. As the United States did not request any reparations thus caused, we did not consider this reservation as unreasonable. No damage was done to American property by the bombardment and no demand was made for any injury caused by Northern soldiers.

Again, as to that clause which requested guarantee in writing against anti-foreign agitation and demanding protection of American citizens, the reply seemed to us unequivocal and is practically what we asked for. It is true that the reply as a whole was not satisfactory; that we were satisfied the damage was done by Nationalist soldiers; that we did not think it advisable to have a joint inquiry as the United States had made its own inquiry, as had the other countries, and we believe that our facts were accurately stated in the original demands.

I also pointed out to him that this proposed draft stated that "demands which the Powers concerned are determined themselves be carried out"; that this seemed to me as strong a threat as contained in the originally proposed answer. I asked him how the Powers propose to enforce these demands,—whether against Eugene Chen or Chiang Kai Shek or the Nationalist Army; that it was not at all clear whether Eugene Chen could comply if he wished to and Chiang Kai Shek had made no response.

I then told him that while I would take the matter up with the President and give careful consideration to the Japanese proposal, I suggested that it might be wise to wait a short time to see what developed in the South; that apparently there was a break between the Hankow Government and Chiang Kai Shek and, as I had stated before, I questioned the wisdom of sending an answer which was less positive than the original demands as this would be interpreted by the Chinese as weakening; on the other hand to send an answer which committed the Governments further as to sanctions would be equally unwise and between these two points it was questionable in my mind whether the Governments should not wait and see how the result of this split in the Nationalist Authorities developed. The Ambassador was very emphatic that his Government would not apply sanctions and admitted the wisdom of these suggestions which he said he would cable to his Government. I did not refuse to join in this proposal but I suggested these objections.

We then discussed the question of sending troops to Peking and Tientsin. He said his Government was not willing at this time to send any more troops to these places; that they had increased their forces at Tientsin up to 1500. I stated that both the British Government and the United States believed that if an army was to be sent to Peking

and Tientsin sufficient to protect those places and the communication to the sea from attack by a regular organized Chinese army, at least 50,000 men—possibly more—would be necessary; that the British Government was only willing to send one brigade—probably 4,000 men; that if the occasion required, the United States would be able to send probably 3,000 more Marines, perhaps more, which we thought would be ample to protect the Legation and the Americans in Tientsin against mob violence. He said he did not believe that any Chinese Army would attack the Legations or the foreigners in Tientsin. In any event, he said his Government was not willing at this time to send the troops mentioned in the British note,⁶⁶ of which I informed him.

893.00 Nanking/114 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, April 26, 1927—6 p. m.

[Received April 26—4 p. m.]

488. 1. My interested colleagues held discussions yesterday and today regarding amendments to the proposed replies to Ch'en's notes which have been suggested by the Japanese Government. I understand that Japanese Ambassador at Washington has communicated to you the Japanese suggestions.⁶⁷

2. My four interested colleagues agreed upon the following as the basis of a joint recommendation to be sent by each to his Government:⁶⁸

"First. To inform our respective Governments of the Japanese proposal, of their modified draft note to be accompanied by a public declaration (to be agreed upon by the four Ministers later), to which we agree in the hope that it may bring America back into line. As regards the proposed declaration, French, British, and Italian Ministers would prefer not to make it unless Japanese Government insist[s]; but will agree if they do so insist: the objection being that it merely opens the whole field for polemical discussion to Ch'en.

Second. Even if America does not come in in response to the present Japanese proposal, we four agree to go ahead with the draft note as now modified.

Third. The four Ministers being all authorized to agree to principle of sanctions, they will immediately after the despatch of the identic notes discuss again the question of entering on negotiations with Chiang Kai-shek, as also that of the application of sanctions at Hankow, in the event of an unsatisfactory answer."

MACMURRAY

⁶⁶ See note No. 262, Apr. 14, 1927, from the British Ambassador, p. 108.

⁶⁷ See memorandum by the Secretary of State, Apr. 25, *supra*.

⁶⁸ Quotation not paraphrased.

893.00 Nanking/115 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, April 28, 1927—11 a. m.

194. Your telegram No. 488 of April 26, 6 p. m. On the morning of April 25 the Japanese Ambassador called upon me and left with me for my consideration a modified form of the draft note which you quoted in telegram 440, April 15, 7 p. m. Ambassador Matsudaira requested that I consider the draft he presented and give him my decision. I promised to do so. He called again yesterday and I told him that the draft even in this modified form was not acceptable to this Government. I pointed out that when applied to the reply made by Eugene Ch'en to the American note of April 11 the following sentences were not strictly accurate: "Not one of the demands made has been accepted unequivocally by the Nationalist authorities. Reservations have been attached to the acceptance of each." I pointed out to the Ambassador that violation of the United States consulate at Nanking had been admitted by the so-called Nationalist Government and that it had offered reparations based on the fact that the consulate was on Chinese territory and was therefore entitled to protection. I told Ambassador Matsudaira that I did not consider this clause to be equivocal and that I could not say that Ch'en had attached any reservations to this statement. I told the Ambassador that Ch'en's reply stated also that the so-called Nationalist authorities were prepared to make reparations for any damage done to our nationals where such damage had been inflicted by Nationalist troops and not by Northern soldiers or by the bombardment from American and British warships. I said that in my opinion this reservation was not unreasonable as we were making no claim for damage done to American property by bombardment from the foreign warships and we had presented no demand with respect to any injury inflicted by Northern troops. I also pointed out that the undertaking in Ch'en's note with respect to a written undertaking against antiforeign agitation and for the protection of United States citizens appeared an unequivocal acceptance of the demand which we had presented. I told Matsudaira that it was quite true that as a whole Ch'en's note was unsatisfactory but we could not say that the Nationalist Government had not accepted any of the demands without equivocation. I furthermore told the Ambassador that this Government found objectionable the statement in the revised draft which read, "The basic demands which the powers concerned are determined themselves to carry out." This phrase appeared to contain a threat of sanctions even stronger than that in the first note. I told the Ambassador that it seemed to me unwise to

present another note at this time weaker in its terms than the original note, as the effect upon the Chinese of such procedure would be bad, and that this Government would object to presenting a note worded in such a way as to commit the United States to applying sanctions or to cause embarrassment to this Government, should it not abide by such a commitment. I stated my belief that it would be much wiser for the interested powers to watch developments, refraining from action on the matter for the present.

I fail to understand statement in third paragraph of your telegram under reference to the effect that your four interested colleagues all have been authorized to sanctions in principle and that after the identic notes have been dispatched they will discuss the question of applying sanctions at Hankow should the answer not be satisfactory. Matsudaira told me that the Japanese Minister in China had not been authorized by his Government to agree to sanctions in principle nor to discuss the question of applying sanctions at Hankow should the answer not be satisfactory. Matsudaira said that the Japanese Government is opposed to applying sanctions. I have received such information from the Japanese Ambassador from the beginning. I trust that your influence with the Ministers of the other interested powers will be used against drastic action. The American Government is very anxious to give the powers the fullest cooperation possible, but it cannot join them at this time in presenting identic notes to Ch'en on this subject.

KELLOGG

893.00 Nanking/126

The British Ambassador (Howard) to the Secretary of State

No. 304

WASHINGTON, May 3, 1927.

SIR: With reference to your note of April 22nd on the question of the presentation of a further identic note to Mr. Chen concerning the Nanking outrages, I have the honour, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, to bring the following to your attention.

After giving the latest reports received from His Majesty's Minister at Peking and the various naval and military authorities in China the most careful consideration and examining them in all their bearings, His Majesty's Government have finally decided against either the bombardment of the Hanyang Arsenal as a sanction for the Nanking outrages or a re-occupation of the Hankow Concession on the ground that the disadvantages attending both of these operations greatly outweigh any advantages which might possibly accrue from them. It is therefore, in the opinion of His Majesty's Government, undesirable in present circumstances to proceed with either of these measures.

Having so decided, and being aware that other interested Powers are equally unprepared to agree to a policy of sanctions in principle, and that the question therefore of applying any other particular sanctions must be relegated to an indefinite future, His Majesty's Government are of opinion that no useful purpose will be served by addressing any further note to Chen on this matter. The mere issue of minatory notes and peremptory demands, which are unsupported by a unanimous determination to carry out joint concrete effective measures for ensuring their fulfilment in case of refusal cannot but lower the prestige of all Powers so acting. His Majesty's Government consider this argument is greatly strengthened by the fact that in the event of a further note being despatched to Chen it would, in any case, be signed by only four out of the five Powers who presented the first note, and the presentation of such a note would therefore be a clear indication of fresh disunion among the Powers themselves.

I am to add that His Majesty's Government reserve to themselves full liberty of action as to the future and, in particular, in respect of any further outrages which may be perpetrated on the British flag, British nationals and British property.

I beg leave to state that His Majesty's Minister at Peking is being instructed to make a similar communication to his United States, French, Italian and Japanese colleagues.

I have [etc.]

(For the Ambassador)

H. G. CHILTON

893.00 Nanking/125 : Telegram

The Consul at Nanking (Davis) to the Secretary of State

U. S. S. "McCORMICK" AT NANKING, *May 3, 1927*—1 p. m.

[Received 1:50 p. m.]

I most respectfully suggest the advisability of now cultivating as good relations as possible with Chiang Kai-shek's group as representing the best of the so-called Nationalist movement, provided that (1) it will strongly disavow and promise full satisfaction for the Nanking outrages; and (2) guarantee the cessation of molestation of American property and definitely undertake to respect American rights.

I believe that while any general intervention would be both impractical and inimical to American interests, further delay in securing satisfaction for the Nanking incident and [would] perhaps seriously and permanently impair American prestige in China.

DAVIS

893.00 Nanking/129 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 4, 1927—9 a. m.

[Received 10:10 a. m.]

516. Your telegram number 194, April 28, 11 a. m. Following a meeting of the five interested Ministers on April 13th [*sic*] at which the Japanese Minister informed us of the substance of your conversations with the Japanese Ambassador on April 25th and 27th and discussed certain suggestions of his Government as to verbal alterations which might enable you to accept the proposed draft reply to Ch'en, the British, French and Italian Ministers joined in drawing up a report to their respective Governments.

The following is a translation from the French text of this report which was sent me the same day but through some accident reached me only today :

"The most recent exchanges of views on the subject of the settlement of the Nanking affair have shown that the American Government, while disclaiming any wish to dissociate itself from the other interested powers, hesitates to adopt their point of view in regard to the usefulness of continuing negotiations entered into and of pressing the Hankow authorities to meet without delay the demands already presented explaining that indeed the State Department insists on the necessity of deferring the despatch of the answer prepared by the interested Ministers to the latest communication of Eugene Ch'en until the situation shall have been cleared up between Chiang Kai-shek and the Wuhan Government.

On the other hand it suggests new alterations to the text amended at the instance of the Government at Tokyo.

The latter for its part shows itself disposed to fall in with the views of the Government at Washington and is delaying by a further examination its answer concerning the proposal that the four powers act if necessary without American participation.

In view of the fact that the question of sanctions, already set aside in order to facilitate an understanding, will necessarily come up for discussion again, and that even in its present attenuated form the common action determined on cannot receive a general assent, it seems useless to seek any longer a reconciliation at Peking of the viewpoints as to which at least two of the interested Governments do not share the views of the other three, especially since more than a month has passed without satisfaction having been obtained.

In considering the above the representatives of England, France and Italy cannot refrain from regretting that the unity of action which was realized for one moment cannot be maintained in face of a situation which nevertheless constitutes a common danger whose seriousness has not been in the least diminished; but they furthermore consider it their duty to put their respective Governments on guard against a policy of weakness which in encouraging by impunity antiforeign feeling and the activity of forces of disorder will neces-

sarily result shortly in placing in even greater danger the lives and property of foreigners in China."

MACMURRAY

893 00 Nanking/135 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, May 6, 1927—10 p. m.

[Received May 6—4:32 p. m.]

526. 1. Following telegram received from Consul General Gauss at Shanghai as his No. 31, May 4, 4 p. m.

Nanking Government has offered post of Minister for Foreign Affairs to C. C. Wu. Probably he will accept, but one of the difficulties facing him is that of dealing with the demands on the Nanking affair in a way that will satisfy both Chinese opinion and the interested powers. It has been suggested through Mr. Norman⁹⁹ that Wu might confer with you or with your representative at Shanghai regarding a further note to be sent by the powers and a suitable answer for the Nanking Government to make. Shall I have in your behalf an unofficial preliminary discussion with Wu along the lines indicated?

2. To the above telegram I am replying today as follows:

31. May 6, 6 p. m.

(a) I do not see any objection to your taking a receptive attitude toward any initiative which Wu may take with you or Consul Davis (I understand he is in Shanghai at present) looking toward a settlement of the Nanking affair. I am not in a position to inform you, however, with which faction our Government contemplates dealing, nor with regard to the terms upon which our Government is prepared to insist, nor as to the extent to which it will go in its insistence. You must, therefore, be most discreet in avoiding making any commitments on any of these points.

(b) I am repeating to the Department for instructions your telegram No. 31, May 4, 4 p. m. and this telegram.

3. Please send instructions with respect to the above.

MACMURRAY

893.00 Nanking/136 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, May 9, 1927—1 p. m.

211. Your telegram No. 526 of May 6, 10 p. m.

1. Your instructions to Gauss and Davis to receive any statement which C. C. Wu may wish to offer but to make no commitment are

⁹⁹ Robert S. Norman, American citizen, formerly legal adviser to Sun Yat-sen, in Shanghai on a visit while en route from Canton to the United States.

approved. You may, unless you perceive objection, communicate Gauss' telegram to you and your reply to him to your interested colleagues, as I rather think that we should keep them informed as a matter of good faith. Quite likely similar advances have been made to them.

2. I do not believe any new note on the subject of the Nanking affair should be sent to the Nanking authorities, especially as Chiang Kai-shek has the opportunity of making some answer to the notes of April 11, and we lack information as to whom Wu represents.

3. Confidentially, I am not ready to say that our Government would not accept finally a settlement of the Nanking incident modifying to some extent the terms originally demanded, but I do not see that it will serve any good purpose to write more notes on the subject until responsible authorities offer some definite proposition. In case Chiang Kai-shek is ready to take responsibility and make reasonable reparations we would give his proposal consideration, but it appears to me that the best plan now is to hear what C. C. Wu has to say to Gauss and Davis and not to make any commitment.

KELLOGG

393.1163/163 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 12, 1927—7 p. m.

[Received May 12—8:55 a. m.]

547. Following from American consul at Nanking:

"May 11, 8 p. m. A considerable number of American mission buildings in Nanking are still occupied as barracks, and one church is being used as a military hospital."

MACMURRAY

893.00 Nanking/163 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 26, 1927—noon.

[Received May 26—9:25 a. m.]

589. My 570, May 18, noon.⁷⁰

1. Following from the American consul at Shanghai:

"May 21, 11 a. m. Under date of May 20th the Commissioner of Foreign Affairs⁷¹ has written to me as follows:

'Mr. C. C. Wu desires me to inform you that he is prepared to effect a settlement of the Nanking incident as soon as possible. If the American Government will designate some one for that purpose he is ready to hold informal conversations with him.'

Not sent to the Department."

⁷⁰ Not printed.

⁷¹ Quo Tai-chi.

2. In reply to my inquiry whether other interested nationalities had been approached with a similar proposal, he answered:

"Other nationalities have not been approached in the same manner but have been or will be approached. In the absence of the Japanese consul general the suggestion was made yesterday morning to General Matsui who is visiting here and he has reported it to Tokyo. The suggestion will be made to the British Minister during his visit here but he has not yet met Dr. Wu. France is being approached informally through the French consul general.

The suggestion was first made to me through a newspaper correspondent to whom I suggested it should come through an official source. Dr. Wu expected the Commissioner for Foreign Affairs to approach me personally instead of which he wrote the letter."

3. As soon as received, I replied as follows:⁷²

(1) Apparently letter from Commissioner of Foreign Affairs does not change situation regarding which I sent you instructions in my telegrams No. 31 of May 6⁷³ and 36 of May 7.⁷⁴ Sufficient authority has been given to you and Davis to receive any offers from the Nanking regime to settle Nanking affair on the basis previously indicated. No special designation is needed for that purpose and I cannot see, on the other hand, that it would serve any useful purpose to enter into any negotiations with the Nanking authorities before they shall have offered assurances that they are disposed to recognize in a wholehearted manner their responsibility and duty to satisfy the completely reasonable demands which we have made regarding the Nanking affair.

(2) You should keep closely in touch with Lampson and with your colleagues as I do not understand that our Government intends to deal independently in this matter and risk being placed in a position of having the various items of settlement auctioned off by the Chinese among five powers concerned.

MACMURRAY

893.00 Nanking/164 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, May 27, 1927—1 p. m.

235. Your telegram No. 589 of May 26, noon, and our telegram No. 211 of May 9, 1 p. m. Your instructions to consul general at Shanghai approved. With respect to final sentence of first paragraph of your telegram to consul general at Shanghai, keep in mind confidential third paragraph of our telegram No. 211. Consul general should be instructed to inform C. C. Wu that the consul general

⁷² The reply is paraphrased.

⁷³ See telegram No. 526, May 6, from the Minister in China, p. 219.

⁷⁴ Not found in Department files.

is prepared to receive any proposal that Wu may have to make in behalf of General Chiang Kai-shek and to report the same to the American Government for consideration.

KELLOGG

893.00 Nanking/165 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 28, 1927—6 p. m.

[Received May 28—1:45 p. m.]

598. Your 235, May 27, 1 p. m.

1. Following from American consul general Shanghai:

"43. May 27, 6 p. m. C. C. Wu today invited Davis and me to see him and stated his desire was to have informal conversations on proposals for the early settlement of the Nanking affair as on the initiative of his Government and not as a fulfilment of the demands of the Nanking note.

His informal proposals were substantially as follows:

(1) Ministry of Foreign Affairs would state that Nanking affair was caused principally by soldiers of the 19th division of the 6th Army Corps: that this division has been disarmed and instigators punished; that affair was instigated by Communists; and that an order has been issued for the arrest of Lintzehan, Political Commissioner of the 6th Army Corps who however is no longer in Nanking. (He was unable to state who had been punished or how punished but suggested he could obtain this information from the military authorities. Davis states he is convinced no one was punished and the troops were incorporated into other units and that outrages were not confined to division indicated.)

(2) Ministry of Foreign Affairs would express regret, giving assurances stringent orders had been 'or would be issued concerning full protection foreign life and property.

(3) Nationalist Government would make good the damage done to consulate and pay compensation to Americans where it is clear damage was done by troops; in other cases Nationalist Government would pay compensation upon proof of responsibility under international law. A joint commission should be established for examination of claims, fixing amount of compensation in the clear cases and deciding responsibility and if necessary fixing compensation in cases not clear.

(4) This joint commission also to decide 'according to generally accepted rules of international law' the question of 'bombardment of Nanking by warships' and if such bombardment not found to be justified to assess amount of reparation to be made to Chinese who suffered thereby.

Not being authorized to discuss any proposals, we confined ourselves to inquiries for their clarification but pointed out that they

did not meet demands of Nanking note. It is possible that if discussion were authorized and American views indicated, more acceptable proposals might result.

In response to an inquiry Wu stated he proposed to approach all powers concerned along the same lines and was already in touch with the British."

2. The Department's authorization is requested for Davis to come to Peking for a conference with me.

MACMURRAY

\$93.00 Nanking/123

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, May 28, 1927.

EXCELLENCY: The Department has lately received the official report of Mr. John K. Davis, American Consul at Nanking, China, on the events of March 23-24, 1927,⁷⁵ which caused the evacuation of Nanking by all foreign citizens residing therein, and I have noted with particular pleasure Mr. Davis' statement that throughout the trying period at Nanking the unreserved co-operation between British and Americans, both naval and civilian, was most gratifying and contributed largely to the saving of many lives. Consul Davis reports that in alleviating the distress of those persons who were forced to leave their affairs and their homes no distinctions were made as to nationality, and that in this connection the unreserved kindness, energy and frankness of Captain England of H. M. S. *Emerald* were specially conspicuous.

Consul Davis further reported that Captain Heathcote and Lieutenant Bellasis of H. M. S. *Emerald* also displayed commendable courage and devotion to duty in assisting the foreign men, women and children to the city wall and over the wall to the causeway and to the shore when those evacuated were placed in safety aboard H. M. S. *Woolsey*.

I have the honor to express to Your Excellency my sincere appreciation of the assistance rendered by Captain England, Captain Heathcote and Lieutenant Bellasis of H. M. S. *Emerald*, to Consul Davis and the group of American citizens who accompanied him, and I beg of you to convey to these officers the grateful thanks of this Government for the action taken by them while engaged on this duty.

Accept [etc.]

FRANK B. KELLOGG

⁷⁵ Consul's report dated March 28.

893.00 Nanking/197 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 6, 1927—6 p. m.

[Received July 6—noon.]

699. 1. The following telegram has been received from the American consul general at Shanghai:

"July 2, 10 a. m. Referring to your telegram[s] number 45, May 24, 7 p. m., and 49, May 28, 3 p. m. In several personal interviews with C. C. Wu and Quo Tai-chi during the last few days they have stated that the Nanking Government is ready and anxious to settle the Nanking incident with the United States Government irrespective of the actions of other foreign powers in the matter. Quo has stated his personal opinion that matter is being held up through a desire of the United States for joint action with Great Britain but states that this is most unfortunate if true, since any settlement with Great Britain must include definite settlement of the Wanhien incident and the Shakee "massacre", grievances which any government desiring the support of the Chinese people must settle and which will probably result in considerable delay since his Government will insist that the three incidents be considered jointly. Wu and Quo state that next move lies with the United States and the Nanking Government will be pleased to have American Government appoint its representatives to serve on joint commission of investigation to determine guilt of parties and amount of damage suffered by American citizens. Inquiries as to Nanking's definite proposals for settlement have only resulted in general reiteration of statements made by C. C. Wu to Gauss and Davis on May 27 as reported in this office's telegram number 43 of May 27, 6 p. m."⁶

Wu informed me of his intention to restore and refurnish all consulates completely. Senator Bingham is openly advocating the immediate return of an American consular officer to Nanking without awaiting any remedial action by the Nanking Government."

2. I remain firmly of the opinion that we should maintain the receptive attitude recommended in my Number 650, June 16, 9 p. m.⁷⁷

3. Lampson informs me that he has recently received from Wang ⁷⁸ proposals considerably whittling down the project of settlement previously discussed between them (see my number 631, June 9, 5 [9?] p. m., fourth paragraph ⁷⁹) but that with the approval of the British Government he is insisting upon the substance although not necessarily the wording of that project.

MACMURRAY

⁶ See telegram No. 598, May 28, from the Minister in China, p. 222.

⁷⁷ The recommendation was (in paraphrase): "I believe that we should continue to maintain the receptive attitude taken hitherto and wait for such advantages as may come from Lampson's informal conversations with Wang Chung-hui." (File No. 893.00 Nanking/193.)

⁷⁸ Acting as mediator in a personal capacity. Wang became Minister of Justice in the Nanking Government July 15, 1927.

⁷⁹ Not printed.

893.00 Nanking/202 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 22, 1927—4 p. m.

[Received July 22—9:45 a. m.]

752. My telegram No. 715, July 10, noon.⁸⁰

1. Following is substance of a telegram from Shanghai in behalf of Cunningham and Davis:

"July 13, 5 p. m.

1. Quo Tai-chi called on me yesterday morning, with Davis present, under instructions from C. C. Wu to present for transmission to the American Government the terms on which the Nationalist Government were anxious to settle the Nanking incident. I informed him that, while not authorized to enter into negotiations, I would gladly forward any proposals he desired. He then read the following statement to my stenographer:

'Basis for the settlement of the Nanking incident:

(1) The Nationalist Government of the Republic of China, after investigation of the Nanking incident, in spite of the fact that it was instigated by the Communists prior to the establishment of the Nationalist Government at Nanking, assumes responsibilities for the incident in accordance with the generally [accepted ?] rules of international law.

(2) The Nationalist Government to furnish to the Government of the United States a detailed statement of the measures already taken against those implicated in the incident (the statement to be communicated unofficially in advance and accepted by the Government of the United States).

(3) An expression of profound regret in the note from the Ministry of Foreign Affairs and an express undertaking on the part of the Nationalist Government to prohibit Government officials from all forms of violence and agitation against American lives and property (copy of prohibition implementing the above declaration to be communicated unofficially in advance and accepted by the Government of the United States.)

(4) Upon the Nationalist Government accepting responsibility according to general rules of international law, a Sino-American joint commission will be instituted for the purpose of verifying the actual injuries and damage done to American lives and property by the Chinese concerned, and of assessing the amount of compensation due in each case.

(5) The note from the Ministry of Foreign Affairs of the Nationalist Government will refer to the bombardment of Nanking by American warships and the Nationalist Government expects that the American Government will express regret.

(6) Request of the Nationalist Government for the abrogation of existing treaties and the immediate conclusion of a new treaty on a basis of equality and mutual respect of territorial sovereignty.'

2. Quo made the following explanations: As to subparagraph 2, that the detailed statement referred to had already been prepared in Nanking and could probably soon be handed to me; as to subparagraph 4, that there would be no question of accepting responsibility and that the function of the commission would merely be a *pro forma* determination of amounts payable; as to subparagraph 5, that the British Minister had already agreed to receive this and that his reply would be to the effect that the British regretted a situation had arisen which made firing necessary.

⁸⁰ Not printed.

3. Quo further stated (1) that subparagraphs 4 and 5 were inserted merely to placate Chinese public opinion and intimated that favorable answers were not expected; (2) that the terms offered represented the maximum which his Government could concede; and (3) that his Government was anxious to have the first settlement effected with the United States.

4. It is my opinion, in which Davis concurs, that informal conversations would possibly produce sufficient amendment of the proposals to make them reasonably satisfactory, as the Nanking Government is apparently eager for a settlement, and that it will be highly advisable to have all points clearly decided in detail prior to the acceptance of the proposed terms as I anticipate that once the proposals are accepted there will be much equivocation and evasion.

5. I consider it most important that prior to the acceptance of the proposals detailed and written promises be exacted [so] that when our flag is again raised it will be accorded full honors but without special Chinese guard.

6. I suggest that in case the proposed terms are rejected as inadequate Quo be so informed in order that he may not say, as he has been doing, that the next move is up to the American Government."

2. I am replying to the following effect:

"[(1)] After a careful examination I feel that the terms upon which Nationalist Government is disposed to settle Nanking incident do not as they stand constitute an adequate basis of amends for the outrages.

(2) It is possible that further negotiations might produce more satisfactory terms in spite of all statements to the contrary especially as I understand confidentially from my British colleague that he has some reason to hope for better terms as a result of his conversation with Wang. I do not under the circumstances feel that there is any occasion for such haste to negotiate as [it] might place us in the position of bidding against other interested powers especially since it seems evident that the Nanking incident constitutes a very heavy liability to the Nationalist Government and one that must be discharged in full before it can hope for that international recognition to which it aspires.

(3) As compared with our studiously moderate demands of April 11th the present proposals substitute an expression of regret by the Ministry for Foreign Affairs for an apology by General Chiang and provide for Sino-American commission to verify and assess damages. I should be disposed to commend these two very substantial concessions to the favorable consideration of the Department only in case the remaining substance of our [demands?] were fully and unequivocally met. The first four paragraphs of the proposals however embody several points that appear to me unsatisfactory or ambiguous as to which I desire your comments.

(4) In the second paragraph regarding punishments it is proposed that a statement be given showing the measures 'already taken against those implicated in the incident.' In view of the known fact that up to the present principal authors of the outrages remain unpunished

there should be some altogether definite promise as to the action to be taken with a view to the eventual punishment of such persons if and when possible.

(5) The third paragraph does not convey adequate assurance that either the Government or the party or other political organizations may not indulge in 'all forms of violence and agitation against American lives and property' nor does it specify action to be taken in restraint of any such hostile activities.

(6) The fourth paragraph instead of plausible but vague and contentious phrase as to 'accepting responsibility according to general rules of international law' (which might prove to have the effect of enabling joint assessment commission to reopen the whole question of liability) should quite definitely accept in behalf of Nanking Government 'responsibility for the making of complete reparations for personal injuries and material damage done' as specified in the demands of April 11th.

(7) With regard to fifth and sixth paragraphs of the proposed terms I feel that some such formulae (which I take to be merely face-saving devices) might possibly be accepted by our Government if it were entirely satisfied with the basis of amends in the first four paragraphs.

(8) I fully concur with your views as to the necessity of definiteness of understanding on all points in advance of acceptance of proposals (your paragraph 4) including appropriate honors to our flag when again raised (your paragraph 5).

(9) It will doubtless be advisable to inform Quo whenever definite decision has been taken upon our attitude towards proposals but I do not feel greatly concerned by his intimations that we should be [in a?] hurry to deal with proposals as Nanking has been so dilatory in offering (your paragraph 6).

(11) I am repeating to the Department the first paragraphs of your telegram 73 together with this reply."

MACMURRAY

893.00 Nanking/206

The British Embassy to the Department of State

AIDE MEMOIRE

As the Secretary of State is no doubt aware, His Majesty's Minister at Peking is keeping in close touch with his United States and Japanese Colleagues, in order to secure a satisfactory settlement of the Nanking incident.

This constant interchange of views and information on the latest developments between the three Ministers appears to afford sufficient guarantee that none of their Governments will authorize the conclusion of any agreement for the settlement of the incident, the terms of which have not previously been fully discussed and concurred in by their respective Representatives at Peking.

His Majesty's Government trust that the Government of the United States share their view as to the advisability of continuing to act on these lines.

[WASHINGTON,] *July 25, 1927.*

893.00 Nanking/206

The Department of State to the British Embassy

AIDE-MEMOIRE

The Secretary of State refers to his conversation with Mr. Chilton on July 25 and to the *Aide-Memoire* left by Mr. Chilton in which reference is made to conversations which have lately been taking place at Peking between the British and American Ministers concerning a basis for a settlement of the Nanking question. The Secretary of State has been kept advised by telegraph of the general trend of the negotiations regarding the Nanking incident which have taken place between the British Minister to China and the Nanking authorities, as well as between the American Minister and the same authorities, and he is disposed to agree that no settlement of the matter should be made until full opportunity has been had for discussion of the terms of such settlement among the representatives of the interested Powers. The American Minister has been instructed to keep in touch with his colleagues with this end in view. The Secretary of State is of the opinion that after a complete discussion each government should reserve to itself complete liberty of action should it find it impossible to agree with the other interested governments on the terms of settlement. The Secretary of State believes that the governments are substantially in harmony as to this matter and hopes that they will arrive at a conclusion with regard to the terms of settlement which will prove acceptable to all. The American Minister will be instructed to discuss the matter fully with the British Minister in Peking and will continue to act on these lines.

WASHINGTON, *July 28, 1927.*

893.00 Nanking/219 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, *September 26, 1927—4 p. m.*

[Received September 26—3:45 p. m.]

Following received from Paxton who is at Chinkiang:

"September 24, 6 p. m. Today is the semiannual anniversary of the Nanking outrage. It has been reported that the few remaining vol-

umes of consular bound correspondence are being hawked about the streets at Nanking. So far as known, except for the two Standard Oil Company installations at Wuhu and Chinkiang, Ginling College and the Christian Mission girls' school, all American-owned property continues to be occupied. The missionaries are beginning to return, without informing this consulate, which, however, has learned of the presence of nine American women in the interior. The men are sure to follow.

Conditions having improved somewhat at Nanking, now permitting communications with the shore, it is respectfully requested that [I?] be instructed to return there by Standard Oil Company ship, after brief redound to Shanghai in connection with claims.

If I should return, the presence of an American warship at Nanking, while not essential for safety, would be counted on for communication."

To which following reply has been sent:

"September 26, 4 p. m. Your September 26, 6 p. m. Legation approves your return to Nanking. You are not to go ashore unless so authorized by the Legation. I am inquiring of commander in chief regarding stationing of naval vessel at Nanking and shall communicate with you further in this respect."

MAYER

893.00 Nanking/221 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 26, 1927—11 a. m.

[Received October 26—10:55 a. m.]

954. Reference American consul in charge at Nanking's despatch of September 24⁸¹ regarding "Status of American interests in the Nanking consular district since 6 months after the outrage," page 39, et seq.:

1. The commander in chief has telegraphed me advising careful consideration of Paxton's recommendation to negotiate with Nanking faction for settlement of the incident. He states conviction that best protection of American interests throughout China diplomatically and by Navy will be accomplished by the cultivation of cordial relations with all factions. That we cannot cultivate cordial relations with the various factions nor should we have any relations with them until the Nanking incident is adjusted. That C. C. Wu with whom he had had a conference stated that his Government was ready to settle this incident. That in his opinion inadvisable to maintain naval vessel from which Consul Paxton could carry on his consular duties in Nanking district. That Nanking faction should recognize a consular agent in that district before any consul should

⁸¹ Not printed.

be sent there to operate afloat or on shore. Further, that such recommendation is one of the points which must be covered in the settlement of the incident. That the negotiations already inaugurated would go by the board if the Wu government should be superseded and the preliminary work would have to be done all over again, quite possibly with a faction not ready to settle the matter. That Admiral Bristol understands that the Minister will not return before about December 1st, so it is his opinion that action in this matter should not be delayed until his arrival but should be taken up at the Department before the Minister leaves the United States.

2. I do not consider present moment opportune for initiating any negotiations with Nanking regime or continuing the informal conversations between Consul General Cunningham and C. C. Wu for the following reasons: (1) Continued existence of Nanking regime even in its present unstable condition is more than ever in the balance owing to the civil war within a civil war recently begun between Nanking and Wu Han. This widening of split by inauguration of active hostilities apparently on a large [scale ?] between the two factions which has been foreseen for some time makes it inexpedient from every point of view to negotiate with one of the parties to the conflict. It is uncertain which, if either of them, will survive. (2) The Nanking faction has promoted General Ch'eng Ch'ien to be chairman of Nanking military council and as such, leader in attack on Wu Hankow [*Wu Han?*]. (3) This combined with the previous attitude of Nanking regime dispels any faith in its sincerity in desiring an equitable adjustment of the Nanking outrages, or hope in practicality of our coming to a satisfactory solution. I have no doubt that Nanking faction would make an effort to appear conciliatory at the moment in order to draw us and if possible through us the other powers concerned into negotiations by which that faction would be able to gain face at this critical moment. (4) I do not believe that we may reasonably anticipate satisfactory solution of outrages until some authority is established along the Yangtze which is sufficiently stable and capable of realizing solid advantages which would accrue to it from such solution. To proceed in disregard of this would only be calculated to weaken our position generally and place us in disrepute. (5) The Nanking outrages I believe to be a source of regret if not humiliation among the best elements of the Chinese which may possibly be a factor in bringing about fair settlement if we are careful not to dissipate this feeling by injudicious, abortive, and undignified attempts to conclude the matter in the present instance.

3. With all this in mind I most respectfully recommend that no action be taken now looking toward a solution of the incident.

4. In this general regard Cunningham telegraphed as follows on October 24th in connection with a reply to my inquiry regarding General Ch'eng Ch'ien's position:

"On October 21st Quo verbally informed me that he considered next proposal should be made by the United States. He was informed that as previously advised the proposal transmitted in my July 13, 5 p. m.⁸² was not satisfactory to the Minister, whereupon he undertook to attempt to secure another proposal if I would inform him of defects. I promised to point out to him some of the shortcomings during this week.

I assume I am authorized to point out informally the criticisms contained in the Legation's July 22, 4 p. m., paragraphs 2 to 7.

Please confirm my assumption and instruct further if additional objections are to be raised in informal conversations."

5. If the Department approves my recommendation I shall instruct American consul general Shanghai to reply to Quo Tai-chi in conformity therewith.

MAYER

893.00Nanking/222 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 27, 1927—5 p. m.

[Received October 28—10:40 a. m.]

959. Our 954, October 26, 11 a. m.

1. British Minister has informed me that through Wang Chung-hui [and] British consul general at Shanghai, Nanking regime recently sought resumption of negotiations with British Legation respecting settlement of the Nanking outrages. British consul general refused unequivocally and in very strong terms to discuss the matter at this time owing to insulting action of the Nanking regime in appointing General Cheng Chien chairman of Nanking military council and because of instability of the regime.

2. Sir Miles Lampson informed me at the same time that Japanese and French Ministers had told him that they would similarly refuse any overtures which Nanking regime might make to them in above regard.

MAYER

⁸² See telegram No. 752, July 22, from the Minister in China, p. 225.

893.00 Nanking/225 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, November 1, 1927—3 p. m.

[Received November 10—10:50 a. m.]

967. My 964, October 31, noon.⁸³

1. Despite British Minister's unequivocal refusal to deal with Wang Chung-hui (see my 959, October 27, 5 p. m.), Lampson informs me that Wang has again sought to reopen negotiations for settlement of the Nanking outrages with offer more nearly to meet British Minister's original terms. Lampson has placed the matter before his Government for instructions, recommending strongly that no steps be taken at this time looking toward settlement.

2. In this general connection Paxton has telegraphed that one of safes in the consulate at Nanking has been opened and contents extracted, the latter containing among other things all of Davis' silver, this despite the statement by Nanking authorities premises were being guarded.

MAYER

893.00 Nanking/202

*Memorandum by the Assistant Secretary of State (Johnson)*⁸⁴

[WASHINGTON,] November 3, 1927.

BASIS OF SETTLEMENT OF NANKING INCIDENT

Legation's telegram No. 752 of July 22, 4 p. m., reported that Kuo Tai-chi, Nationalist Commissioner of Foreign Affairs at Shanghai, acting under instructions from C. C. Wu, Nationalist Minister for Foreign Affairs at Nanking, had presented to the American Consul General the following statement entitled, "Basis for the Settlement of the Nanking Incident."

[Here follows text of six points listed as a basis for settlement in telegram No. 752, July 22, 4 p. m., from the Minister in China, printed *ante*, page 225.]

For the Legation's guidance the Department has the following comments to make upon the above proposal, and for convenience has numbered its comments 1-6 to correspond to the six paragraphs of the proposal:

1. It is of course far preferable that the assumption of responsibility by the so-called Nationalist Government at Nanking should

⁸³ Not printed.⁸⁴ The initialed "OK." of the Secretary of State appears at the end of this memorandum which was evidently prepared by Mr. Johnson for transmission to the Minister in China over the signature of the Secretary of State.

be absolute and not complicated by a statement which might be interpreted as indicating that it is in some way limited by principles of international law. What is essential is that we should be convinced of the sincerity of their assumption of responsibility. If the Nanking Government desires merely to show that it is living up to the principles of international law I would suggest that the first paragraph read: "The Nationalist Government of the Republic of China, having investigated the Nanking incident, finds that it was instigated by communists prior to the establishment of the Nationalist Government at Nanking. However, being desirous of observing the well-accepted principles of international law, the Nationalist Government assumes full responsibility for the Nanking incident and all damages growing out of the same." My reason for making these suggestions is that I do not wish to have it appear that this Government is imposing liability on the Chinese, regardless of the principles of international law.

2. I agree with you that the detailed statement of the measures already taken against those implicated in the incident should if possible include a promise as to the action to be taken with a view to the eventual punishment of guilty persons. It is of course quite likely that they will not actually be in a position to give effect to any such punishments as they may promise to inflict; and I should not wish to insist to the point of causing them to substitute other victims with a view to satisfying us. It seems essential, however, that they should at least take such action as would publicly disavow and stigmatize as worthy of punishment those known to have been personally responsible for the outrages.

3. I am prepared to accept a statement of profound regret in lieu of an apology from Chiang Kai Shek. I also feel that in giving an express undertaking to prohibit officials from violence and agitation against American lives and property the so-called Nationalist Government should include in such undertaking a promise that its officials will not support or give countenance to agitation and violence against American lives and legitimate interests. This wording would appear to cover all foreseeable situations without specifically mentioning boycotts, strikes, et cetera, as the British would appear to wish to do.

4. Assuming that responsibility for the Nanking incident is satisfactorily acknowledged in Paragraph One of the proposed basis of settlement, the phrase at the beginning of Paragraph Four, reading "Upon the Nationalist Government accepting responsibility according to the general rules of international law" would seem to be unnecessary and inappropriate. If this phrase were eliminated I should see no objection to consenting to the appointment of a Chinese-

American joint commission provided it were clearly understood that the duties of such a joint commission would be confined to the ascertainment of facts and the fixing of the amount of damages to be paid.

5. Of course, we have no regret to express for what the so-called Nationalist authorities term a bombardment but which in fact was a protective barrage placed around a house in which Americans and others were under attack for the purpose of enabling those Americans to escape with their lives. I have no objection, however, to stating to the so-called Nationalist Government that this barrage was laid down by the American destroyers because of the necessity of affording protection to Americans whose lives were threatened and that the Government of the United States regrets that a situation arose which made such action necessary.

6. While there would of course be no objection to making clear once more that this Government would be prepared to take up the consideration of treaty revision upon the conditions indicated in my statement of January 27⁸⁵ and various instructions in that regard it should be made altogether plain that the undertaking of such a revision (which obviously involves considerations of a wholly different order) cannot be demanded in return for a fair settlement of wrongs done our nationals.

The Government of the United States desires that this incident, in so far as it concerns the United States, should be settled and that the American Consulate at Nanking should be reoccupied. It is therefore to be hoped that the Minister will seek to bring about such a settlement at the earliest favorable opportunity.

893.00 Nanking/224 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, November 8, 1927—4 p. m.

[Received 7:45 p. m.]

980. My 967, November 1, 3 p. m.

1. At meeting this morning of Japanese, British, French and Italian diplomatic representatives and myself to discuss certain administrative details regarding our occupational forces at Tientsin, British Minister described course of efforts of Nanking authorities to bring about resumption of negotiations concerning demands, as set forth in my 959, October 27, 11 a. m. [5 p. m.] and my 967, and stated that British Government had approved his recommendations that it take no steps at this time looking toward settlement of Nanking demands.

⁸⁵ See telegram No. 28, Jan. 25, to the Chargé in China, p. 350.

2. I likewise informed my colleagues concerned of attempts made by Quo Tai-chi to resume conversations on the subject with our consul general at Nanking and explained my views as contained in my 954, October 26, 11 a. m., adding that I had requested instructions in the matter.

3. Japanese, French and Italian Ministers all strongly concurred in belief that no steps should be taken toward settlement of the affair at this time, the Japanese Minister stating that this was his Government's position. I understand the French and Italian Ministers are recommending a similar course of action to their Governments should they be approached in the matter.

MAYER

893.00 Nanking/227 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, December 10, 1927—noon.

[Received December 10—9:50 a. m.]

1079. 1. The Japanese Minister has informed his British, French, and Italian colleagues and myself that the Japanese Government believes that independently of any eventual settlement of Nanking affair it would be well to seek an expression of regret from Ch'eng Ch'ien for his part in that affair as a previous condition to entering into direct relations with him at Hankow. Unless a satisfactory expression of regret was received from Ch'eng, the Japanese would inform him that at Hankow the Japanese consul general "will interrupt all communication with him jointly with the Japanese Navy and no other facilities will be given him and all negotiations will be carried on with the Commissioner of Foreign Affairs." It is the hope of the Japanese Government that the other interested powers will act in the same way but if they do not it proposes to act alone.

2. I do not consider it necessary to deal directly with Ch'eng Ch'ien. His position at Hankow is precarious. I do not see, either, that any considerable advantage will be gained by obtaining an expression of regret from him. It would be of no particular value and would absolve him from any further responsibility. Also I am afraid of becoming mixed up in the complicated intrigues which now involve Ch'eng Ch'ien and other Kuomintang leaders. I do not think, therefore, that we should join the Japanese in taking the action they propose.

3. This telegram repeated to Tokyo as Legation's No. 58 of December 10.

MACMURRAY

893.00Nanking/228 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, December 10, 1927—5 p.m.

405. Your telegram No. 1079 of December 10, noon. The Department agrees with you that it is not advisable at present to take action which Japanese propose regarding an apology from Ch'eng Ch'ien.

KELLOGG

EVACUATION OF AMERICAN CITIZENS FROM PLACES OF DANGER
IN CHINA

893.00/8008 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 6, 1927—2 p. m.

[Received January 6—8:50 a. m.]

13. 1. I assume from last sentence your 309, December 24, noon,⁸⁶ that you are adequately informed of the critical conditions which have been existing at Hankow since January 3rd; certain phases, however, particularly pertaining to the evacuation of American citizens necessitate telegraphic report as follows:

2. Following from American consul general, Hankow: ⁸⁷

"Urgent. January 5, 11 a. m. The situation in British Concession this morning extremely discouraging. Huge crowds are congregating along the bund and back streets. All foreign banks and business houses have closed. Temper of the crowds ugly as it was yesterday. Necessity of evacuating women and children a possibility. American plans in this respect have been changed in view of the British Concession having been taken over by the Chinese military. Americans will concentrate at the consulate if situation should demand evacuation. It would make my position more comfortable if I were authorized to make whatever transportation arrangements possible and incur expense in case of evacuation. Transportation facilities would necessarily be scarce."

3. I have authorized Lockhart to make whatever transportation arrangements and incur whatever expense may be necessary in case of evacuation. I hope you approve.

4. Following from American consul general, Hankow:

"January 5, 3 p. m. Situation extremely critical; many women assembled at the consulate with a view to leaving by boat this afternoon or tonight. General alarm prevails and developments of the afternoon quite uncertain. British Concession completely in the hands of Chinese military, and women and children of all nationalities leaving the Concession, some taking to boats in the river and others coming to other concessions for safety," and

⁸⁶ Not printed.⁸⁷ Frank P. Lockhart.

"January 5, 6 p. m. British consul general issued orders for evacuation of British women and children this afternoon and many have already boarded ships. Many American women are also leaving. About 20 or 30 American and British women and children evacuated from this consulate general this afternoon. Situation continues grave. Ships may be held in harbor pending further developments."

MACMURRAY

893 00/8009 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 6, 1927—7 p. m.

[Received January 6—10:45 a. m.]

16. 1. My 13, January 6, 2 p. m. Following from American consul general, Hankow:

"January 5, 10 p. m. British Concession practically devoid of women and children tonight. Many of the British men remaining are concentrated. Ships in the river crowded to capacity. Municipal Council building and offices taken over by the Chinese and flags hoisted. The day has been full of excitement and confusion far more so than at any time since September 1st. Evacuation of all women and children from the port seems inevitable. General strike is likely to be called at any time."

2. British Legation informs me warning has been received that an attack in force will be made tomorrow against British Concession at Kiukiang.

3. In view of serious developments on the Yangtze and probable reaction at Shanghai I am suggesting to the commander in chief, United States Asiatic Fleet,⁸⁸ that it would be advisable if either he or some senior officer were to proceed at once to Shanghai to command American naval forces there.

MACMURRAY

893 00/8021 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 8, 1927—10 a. m.

[Received 1:55 p. m.]

18. Following from Hankow:

"January 6, 6 p. m. Situation considerably relieved today but there still exists much confusion and uncertainty. About sixty American and British women and children evacuated from the consulate general today and are now on board *Kutwo* of the United States Navy. Three ships sailed last night loaded to capacity and but few foreigners of any nationality remain in the British Con-

⁸⁸ Admiral Clarence S. Williams, U. S. Navy.

cession. Chinese authorities are endeavoring to preserve order in the Concession and appear to have succeeded fairly well during the day although there have been but few foreigners moving about the Concession. Business is at a complete standstill and all British firms in the special administrative district are closed.

Women and children of American community generally took advantage of facilities placed at their disposal yesterday and today to leave. The remaining American women and children in the port have their belongings packed [apparent omission] in case situation demands cruiser. At a meeting of representative businessmen with Eugene Ch'en⁸⁹ this afternoon at a conference lasting two hours which I arranged, Ch'en deplored the leaving of foreigners, especially Americans, from the port and said that every precaution would be taken protect foreign lives and property here. He seems confident that the situation will improve, and that the worst is over. Some women and children belonging to mission families have left but a considerable number remain."

MACMURRAY

393.1163/83 : Telegram

The Consul at Foochow (Price) to the Secretary of State

FOOCHOW, January 9, 1927—10 a. m.

[Received—1:55 p. m.]

Referring to Department's telegram of January 7, 6 p. m.⁹⁰ Letter dated Shaowu, Christmas Day, indicates Americans at that place are being subjected to considerable discomfort and may be in some danger from lawless soldiery belonging to 14th Nationalist Army who have occupied all the mission property. Representations have been made locally and also I have telegraphed consul general at Hankow asking him to make known to the commander in chief of all the Nationalist forces my grave concern for the welfare of American citizens not only Shaowu but also at other mission stations where conditions are similar and to insist upon effective measures for their protection.

PRICE

893.00/8022 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 10, 1927—4 p. m.

[Received January 10—3:35 p. m.]

21. Following are substantial portions of telegrams received from Hankow:

"January 7, 2 p. m. Situation in Hankow this morning somewhat easier but by no means normal. Great uncertainty prevails as to

⁸⁹ Minister for Foreign Affairs in the Nationalist Government at Hankow.

⁹⁰ Not printed.

the course of events. Practically all British firms including Hongkong-Shanghai Bank still closed and until present anti-British feeling subsides they cannot hope to reopen and do business. There is still almost complete paralysis of business in the other concessions and special districts. So far no concrete evidence of movement against French and Japanese Concessions but the temper of the Labor element is such that the starting of such a movement would not be surprising. The *Kutwo* sailed last night loaded to capacity with women and children. Additional facilities were afforded by placing Navy cots and blankets aboard with necessary food supplies.

Heavy rain today has perhaps dampened enthusiasm of the rioters and has had a tendency to calm the situation. More American women and children will leave the port as soon as facilities are available.

One of the real difficulties of the situation is that foreigners have no confidence in the assurances given by the Government for protection since they have seen such assurance come to naught before. Another serious difficulty is the economic and financial paralysis of the port which has thrown many Chinese in the concessions and in the native city out of employment. The readjustment, if any substantial progress is made in that direction, will necessarily be slow. As an example of the aggressive measures adopted by the Chinese I may cite the taking over of the electric light works, a British concern. Pickets and soldiers are the principal means of preserving order and the latter, it is said, have not been paid for months. There is constant danger of the soldiers' running amuck.

If there is any plan on foot by the British to retake possession of the Concession, there is no evidence of it. Everything tends in the opposite direction.

Events of the last three days moved with such rapidity and there is such extreme pressure on my time that it was utterly impossible to report many details."

"January 8, 4 p. m. General situation today somewhat quieter. Foreign banks except British have reopened for business. Practically all business houses still closed. A Chinese police force composed of 190 men has been organized for duty in the British Concession, and pickets and soldiers are being withdrawn. Unless some fresh outbreak occurs, Hongkong-Shanghai Bank and Chartered Bank will probably attempt to reopen for business Monday. A few British subjects are venturing out on the streets in the Concession today and anti-British placards are being removed from Hongkong-Shanghai [Bank?] and other institutions. Situation generally is gradually improving but is still very confused. Japanese and French Concessions and two special districts are quiet. Much trouble with carrying coolies who are exacting by threats and intimidation exorbitant fees for transportation of baggage for persons leaving the port. A few additional American wives are leaving today. About half of the American women and children resident here have fled. My family remaining.

Steamship *Kutwo* which left here day before yesterday with many women and children aboard passed Wuhu safely yesterday. A number of refugees evacuated from Kiukiang yesterday arrived here today and are being sent to Shanghai. British Concession at Kiu-

kiang now in complete possession of Chinese soldiers and pickets. Americans have either been evacuated or are safely aboard U. S. S. *Penguin*. American women and children are leaving Ichang and I am conferring with representatives of missionary organizations here this afternoon with a view to having them suggest to their missionaries in interior points in this consular district to withdraw and concentrate in larger ports. Fresh reports from interior inform me that conditions are growing steadily worse. Regret very much that you have not been able to come here before going to Washington."

"January 9, noon. Situation much improved today. Pickets and soldiers entirely withdrawn from British Concession, the affairs of which are being provisionally administered by committee composed of the Minister for Foreign Affairs, Minister of Finance, Minister of Communications. Practically all British men remaining in the port, still being held in Asiatic Petroleum Building by order of the British Admiral. Continued concentration of these men has created great uneasiness in the minds of other foreign residents of the port, as well as Chinese, as many interpret it to mean that the British may contemplate regaining the Concession by force."

MACMURRAY

893.00/8027 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 11, 1927—4 p. m.

[Received 6:22 p. m.]

23. Following telegrams from Hankow:

"January 10, 11 a. m. Your 'January 5, 5 p. m.'⁹¹ In view of recent developments here and possible reactions at interior points due to misinformation and exaggerated reports, representatives of the several missionary organizations here have at my request despatched the following telegram to their interior missions:

'No deaths of foreigners or Chinese here in troubles this week though several injured. British Concession [now in control of Chinese. Situation improving but is]'' still confused. If any missionaries feel themselves in danger, American consul general advises going to a large port where transportation facilities are good. I concur.'

This, it will be observed, is simply a warning in effort to correct any wild orations made here, no details being circulated at interior points."

"January 10, 4 p. m. Situation quiet today, but no resumption of business by the British firms. Apparently they are waiting arrival of representatives of the British Legation who are expected here tomorrow or next day. British men of the port still concentrated in Asiatic Petroleum Building. Two additional British naval vessels arriving tomorrow.

⁹¹ Not found in Department files.

⁹² Bracketed words inserted in accord with undated correction telegram from the Minister in China; received Jan. 12, 1927, 1:58 p. m. (file No. 893.00/8043).

Few more American women and children leaving today. French have voluntarily removed wire and sandbag barricades in their Concession. The evacuation from the consulate by American women and children who wished to leave was accomplished without the necessity of calling out volunteers or landing naval units in special district."

MACMURRAY

893.00/8008 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, January 11, 1927—7 p. m.

10. Your No. 13, January 6, 2 P. M. Your action approved. Please have Lockhart telegraph Department amount obligations necessarily incurred.

KELLOGG

393.11/427 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 13, 1927—noon.

[Received January 13—10:55 a. m.]

25. Price has requested me to transmit the following:

"Referring to my telegram of January 9, 10 a. m. Latest reports lead me to believe American lives Shaowu are in danger. Although the consul general at Hankow has informed me he has made representations to the appropriate authorities I fear actual control does not exist. I have therefore suggested that at least women and children be sent to Foochow provided that I can arrange for safe conduct which I am attempting to arrange. As I am convinced antiforeign feeling [in] the Nationalist army is being deliberately stimulated in various guises, I am advising all Americans in the interior to be prepared to leave on short notice."

MACMURRAY

893.00/8056 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, January 14, 1927—1 p. m.

[Received January 14—9:47 a. m.]

29. Following telegram from Hankow:

"January 12, 4 p. m. Yesterday the Belgian consul general was roughly handled in the French Concession and forcibly detained by a mob of coolies for having intervened in a dispute between a Dutch firm and a Chinese, with the result that the Belgian consul general was conducted to the Chinese police station located in the Special District Administration. Day before yesterday an automobile in the garage

of an American, L. E. Gale, and belonging to a German, was seized in the French Concession by armed troops. With other incidents almost daily, disclosing a disregard of foreigners' rights which is almost complete, the new Government's lack of control over the labor group is being demonstrated. This constitutes the real menace in situation here. Although on the surface general conditions seem to be improving gradually, the Cantonese cannot hope that sporadic outbreaks against foreigners will be avoided because the favor of the labor faction has been carried so persistently by the Cantonese. Foreign, including American, businessmen have lost heart completely and feel they cannot receive protection from the regime now in control because there does not appear to be a cohesive government among the Political Bureau and the civil and military authorities. The Political Bureau apparently controls major policies and the military authorities oppress the people and usurp the rights of foreigners. Most of the time of the civil authorities is occupied in trying to settle difficulties brought about by the other two."

MACMURRAY

893.00/8065 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 16, 1927—2 p. m.

[Received January 16—1 p. m.]

34. 1. Following from American consul, Foochow:

"January 15, 1 p. m. The blame [*funeral* ?] of the already decomposing bodies of Chinese babies being carried from the Spanish Dominican Holy Childhood Orphanage at Foochow precipitated serious rioting from 4 o'clock to 10 o'clock yesterday afternoon in the course of which the Spanish Sisters and the Spanish priests were compelled to flee and the property looted and injured. Although all Spanish missionaries with the exception of bishop are leaving today to Hongkong there is danger at least to the American Dominican Fathers and possibly to all foreigners since it was apparent that neither police authorities nor the military authorities were able to control the mob. With the concurrence my colleagues I suggest the despatch to Foochow of a foreign warship in order to assist in evacuating foreign residents should it become necessary."

2. I have communicated substance of the above telegram to commander in chief, Asiatic Fleet, approving suggestion.

MACMURRAY

893.00/8066 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 17, 1927—3 p. m.

[Received January 17—6:46 a. m.]

38. My 34, January 16, 2 p. m. U. S. S. *Pillsbury* proceeding to Foochow.

MACMURRAY

393.11/428 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 17, 1927—7 p. m.

[Received January 17—2:10 p. m.]

42. Following from Nanking:⁹³

"January 16, 3 p. m. I earnestly suggest that American citizens be withdrawn immediately from territories controlled by Cantonese, and the Department request home organizations to order their workers' withdrawal. This action would avert loss of life and prestige and would probably tend to bring the more sane Southern leaders to their senses."

I have replied as follows:

"January 17, 6 p. m. Your January 16, 3 p. m. I assume that you are acting on the authorization granted in my January 13, 3 p. m.,⁹⁴ and are advising any Americans in portions of your district under or in any proximity to areas under Nationalist control to withdraw without delay. All consuls in Yangtze Valley and in South China have been granted authority in their discretion to advise immediate withdrawal, but I have not yet been informed by any of them that they have definitely recommended a general exodus. There is, however, a very large withdrawal of Americans from Szechuan and there are numerous departures from regions lower down the river. Apart from such action as the consuls may take locally [in the] remedying of conditions in their immediate vicinity, I purpose immediately, in the event that there appears a convincing general necessity therefor, to warn all American citizens to withdraw from areas under Nationalist control. I desire your further and more specific comment as to the immediate advisability of this step."

With reference to my telegram 32, January 15, 2 p. m.,⁹⁵ section 2. In view of the possibility of American missionaries in Central and South China being compelled to withdraw, I suggest that the Department take up with the heads of mission boards the question of their making suitable preparation for such an eventuality.

MACMURRAY

393.1163/93 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 18, 1927—5 p. m.

[Received January 18—11 a. m.]

47. Following from American consul general at Foochow:

"January 18, 3 a. m. In the course of systematic rioting all day Sunday by Nationalist soldiers of the First and Seventeenth Armies

⁹³ From Consul John K. Davis.

⁹⁴ See penultimate paragraph of telegram No. 26, Jan. 13, from the Minister in China, p. 45.

⁹⁵ *Ante*, p. 47.

almost all foreign mission property within the walled city of Foochow was looted, including American Methodist institutional church and hospital, and two residences of the American board. When I attempted to see the commander in chief, Ho Ying-ch'ing, yesterday morning in company with two representatives of the American community, we were treated with marked incivility, being obliged to wait a long time in an outer court and being finally received by a subordinate officer. This official tried to disclaim all responsibility even though evidence was overwhelming that the rioting was confined almost entirely to soldiers in uniform and though I was able to show evidence that virile inflammatory placards had been and were still being issued by Nationalist armies, the danger from which I had warned them previously. His reply to my inquiry whether the Nationalist armies would or could protect American lives and property was equivocal. I am convinced Sunday rioting was deliberately planned as a first step to drive out foreigners. In cooperation with the United States Ship *Pillsbury*, which arrived yesterday, I am arranging for the evacuation American citizens as quickly as possible from the entire consular district during the present lull before the storm which I believe imminent."

MACMURRAY

393.11/434: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 18, 1927—7 p. m.

[Received January 18—5:51 p. m.]

49. My 47, January 18, 5 p. m. and Hankow's January 17, 1 p. m.⁹⁶

1. I have instructed Lockhart to protest in person to Nationalist authorities and to inquire what assurances they are prepared to give that American life and property at Foochow will be protected; also to demand that those at Foochow responsible for this outrage be punished and to state that claims will be presented in due course. I have also informed Lockhart of the substance of my number 42, January 17, 7 p. m. and stated that I question whether I can longer refrain from warning all Americans to withdraw at once from areas under Nationalist control. I have therefore directed him to inform Nationalist authorities that the consul at Foochow is arranging for the evacuation of all American citizens in his consular district and to inquire whether I am to inform my Government of my conviction that the Nationalist authorities are either no longer able or no longer willing to afford protection to Americans and state that in the absence of immediate and convincing assurances and concrete evidence of such willingness and ability I purpose to advise all my nationals to withdraw at once from the regions under Nationalist control.

⁹⁶ Not printed.

2. I am informing Price that I approve of his action as reported and that he is authorized to incur any expenses actually necessary to effect the complete evacuation of American citizens. I request the Department's approval.

3. A formal protest will be made with the Ministry of Foreign Affairs at Peking.

MACMURRAY

393.11/434 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, January 19, 1927—6 p. m.

16. Your 49, January 18, 7 p. m. Department approves action described by you in paragraphs 1 and 2.

If you consider that the filing of a formal protest with the Ministry of Foreign Affairs at Peking under present conditions, when protest is also to be made with the so-called Nationalist authorities at Hankow, will either result in dividing responsibility or incurring ill will on the part of so-called Nationalist authorities you are authorized to discontinue protest at Peking against acts of forces not under their control.

KELLOGG

393.11/428

The Chief of the Division of Far Eastern Affairs (Johnson) to Mr. A. L. Warnshuis, Secretary of the International Missionary Council, New York

WASHINGTON, January 19, 1927.

SIR: In order to confirm at least a portion of the information you have doubtless received through newspaper reports, the Department desires to state that American officials in China have advised American citizens residing in regions west of Chungking and in the Foochow consular district in Fukien to withdraw to places where they may receive naval protection or secure further transportation. There have been extensive withdrawals of American citizens, also, from regions in the Yangtze Valley.

The Department has instructed its officials in China to advise American citizens there in regard to the steps they should take for their own safety. It is now necessary, in the Department's opinion, for all American missionary organizations having representatives in the Yangtze Valley or in South China to make suitable preparations for the evacuation of their various mission stations in these regions,

so that this may be accomplished without loss of time if such a measure becomes advisable in any given locality. American officials in China will assist American citizens in seeking places of safety to the full extent of the facilities at their disposal.

The Department trusts that it may avail itself of your good offices in the transmission of this information to the interested American missionary organizations. If you consider that the Department might better adopt other means for communicating with the American missionary organizations concerned at this time and in the future, your suggestions in this regard will be greatly appreciated. You are requested to state, also, whether you have facilities for ascertaining and reaching all American religious and educational bodies engaged in work in any designated region of China.

I am [etc.]

NELSON TRUSLER JOHNSON

893.00/8085 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, January 20, 1927—3 p. m.

[Received January 20—7 a. m.]

53. My 47, January 18, 5 p. m. Following from American consul Amoy:

"January 19, 4 p. m. British steamer with priests, nuns and several Chinese orphans en route Hongkong from Foochow detained yesterday by agitators for some time but finally allowed to leave after disembarking 10 Chinese including 8 children and 1 Spanish priest. Amoy Spanish priest held up late yesterday afternoon by the Chinese crowd but uninjured, local police protecting. Later mob threatened Spanish mission Amoy and 4 priests and 5 nuns took refuge American steamer *Consuelo*, leaving premises under police protection. This morning local newspapers contain inflammatory articles against Foochow Catholics accusing them murdering children, et cetera. This morning bodies of 2 newly born babies found on shore of Kulangsu packed in foreign-style basket. Very possible this may increase agitation. At present all agitation directed against Catholics but impossible to say whether it may spread against foreigners generally. International Settlement quiet at present and authorities guarantee protection, also foreigners other than Catholic mission have not been molested on Amoy city side. Situation fully discussed this morning by consular body who are agreed that it is desirable to have a foreign war vessel here in addition to the Japanese cruiser *Ohi* expected January 21st. Situation in interior quiet but I have warned missionaries in far away stations so that they may be prepared in case it becomes advisable for them to come in."

Foregoing repeated to commander in chief.

MAYER

393.1163/94 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, January 20, 1927—4 p. m.

[Received January 20—9:05 a. m.]

54. Supplementing my 42, January 17, 7 p. m. It is suggested that the Department advise all American mission boards to instruct by telegraph their missionaries in South and Central China promptly to withdraw from stations when directed to do so by American diplomatic or consular officers, since experience has shown the difficulty of inducing our nationals to heed the advice of Government officials in this respect.

MAYER

893.00/8089 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, January 20, 1927—6 p. m.

[Received January 20—6:10 p. m.]

56. My 47, January 18, 5 p. m.

1. Following from Foochow:

"January 19, 8 p. m.

(1) Your January 18, 7 p. m. Three men, thirty-two women, twenty-eight children left here this afternoon to Manila on board *Pillsbury*, my family included. About the same number have gone to Shanghai, Hongkong and other places by steamer. American citizens from interior points are starting for Foochow. By reason of distances from the port it will probably take two weeks for all to arrive and to be evacuated but the large majority of the women and children should be out within a period of one week.

(2) While I have just received a communication from the Provincial Administrative Board promising protection of life and property, I have received no direct assurances from Commander in Chief Ho.⁹⁷ This fact and other circumstances lead me to believe Ho may not be in complete control either of the policies or of the military forces which it is suspected are being directed by radical Left Wing dominated by a Russian adviser. While this element apparently has thus far largely failed to arouse popular antiforeign or even anti-Christian feeling, the general opinion is that it is determined upon proceeding with the plan mentioned in my telegram January 18, 3 a. m.⁹⁸

2. I am telegraphing Governor General, Manila, soliciting his assistance for Americans on *Pillsbury* who although not destitute will much appreciate assistance in obtaining temporary accommodations.

⁹⁷ Ho Ying-ch'ing, commander in chief of Nationalist troops, Fukien Province.

⁹⁸ See telegram No. 47, Jan. 18, from the Minister in China, p. 243.

3. In view of the likelihood in the immediate future of many Americans in China being in need of assistance, it is suggested this matter be brought to the attention of American Red Cross with a view to funds being made available at Manila, Shanghai and Hongkong.

MAYER

893.00/8091 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, January 20, 1927—7 p. m.

[Received January 21—11:40 a. m.]

57. Following from Hankow:

"January 19, 3 p. m. Demands of labor becoming more and more unreasonable, and tense situation is in no way relaxed. Present state of uncertainty and tenseness cannot be expected to continue much longer without serious outbreaks. It is my conviction, which is shared by many Americans here, that the British and Chinese authorities must soon settle the Concession question or its every vestige of British business will disappear from Hankow and a large part of all other foreign business as well, to say nothing of the menace to the lives of foreigners through some uncontrolled act of the mob which might follow a prolongation of the present intolerable situation. Five hundred eighty-three approximately have been evacuated from Hankow and eighty-three Americans. A few still departing daily. General Chiang Kai-shih⁹⁹ departed for down river last night."

MAYER

393.1163/100 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, January 22, 1927—10 a. m.

[Received January 23—11:40 a. m.]

60. Following from American consul at Foochow:

"January 20, 5 p. m.

1. Reports from sources so authenticated and friendly as to be credible indicate the probability further attacks upon foreign mission property within a few days. When the *Pillsbury* left here yesterday afternoon she expected that another vessel would be sent to Foochow shortly. Can you confirm the arrangement as I have not had any further information or any word from the *Pillsbury*?

2. The evacuation Americans is progressing."

Commander in chief has informed me that *Parrott* is proceeding Foochow to replace *Pillsbury*.

MAYER

⁹⁹ Chiang Kai-shek, commander in chief of Northern Expedition of the Nationalist forces.

393.1163/94 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, January 22, 1927—6 p. m.

21. Your No. 54, January 20, 4 p. m. As suggested in the Legation's telegram No. 42 of January 17, the Department has advised all American missionary bodies having representatives in Central and South China to make preparations for their immediate evacuation if it is necessary. This would seem to be sufficient indication of the gravity of the situation.

KELLOGG

893.00/8097 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, January 22, 1927—6 p. m.

[Received January 22—11 : 45 a. m.]

61. 1. Following from Hankow :

"January 20, 6 p. m. Your January 18, 7 p. m.,¹ was received this morning and I called in person on the Minister of Foreign Affairs at once and read to him a careful paraphrase of the telegram quoted from Foochow and of your instructions to me and asked in the latter regard that he give me a categorical reply to your inquiries. As a preliminary I stated that you had been for some time, as I had also, greatly concerned for the personal safety of Americans in the Yangtze Valley and the region south and that you had reached the point of seriously contemplating suggesting the immediate withdrawal of all Americans from the territory under Nationalist control. Ch'en replied without hesitation and quite emphatically that he will at once telegraph to Foochow ordering that the most complete protection be given to American life and property and to all foreigners there and in Fukien. He said that he had already given such an order for Hupeh, Kiangsi, and Hunan. He stated also that he will request the governing council of the Nationalist Government at its meeting tomorrow morning to order an immediate and searching inquiry as to the incident at Foochow and he said that if this investigation discloses that American property has been damaged in an outrage for which the Nationalist Government can be held properly responsible, adequate and full compensation will be granted to the sufferers. He again assured me that the Foochow incident will be settled at once and to the satisfaction of the American community. He said he wished you to know that he appreciated your bringing directly to his attention complaints of this kind and that in every case, when complaints are communicated to him, he will take steps immediately to remedy the situation of which complaint is made. He added that he will shortly issue a statement explaining particularly the policies of the Nationalist Government vis-à-vis foreigners; that this statement will probably be issued in the next 48 hours and that it will also explain the incidents leading up to the taking over of the

¹ See telegram No. 49, Jan. 18, from the Minister in China, p. 244.

British Concession. He stated that the Nationalist Government is not committed to the employment of force to recover concessions; all such matters he stated will be settled by negotiation. He said also that he desired to emphasize that in [*sic*] matters involving unequal treaties could and would be amicably settled through diplomatic negotiation.

With reference to concrete evidence of whether the Nationalist Government is capable of affording protection he cited the manner in which the British Concession at Hankow is now being administered and the order which is being maintained in the Concession by the Nationalist authorities.

Your warning created a deep impression upon him. I had also communicated a similar warning recently on my own responsibility and he had assured me that every possible protection would be afforded Americans in territory under Nationalist control. In the course of the conversation he stated that in spite of what has happened he asked very earnestly that you refrain from suggesting to the Americans to withdraw from the region under Nationalist control; he said that such a course would be a most regrettable act which would be wholly unwarranted and if carried out he ventured to suggest would have most unfortunate results as it might be interpreted as having been taken to promote British interests or as an act identifying American interests with the British. Ch'en is much disturbed over the gradual withdrawal of Americans and the prospect of further withdrawals. When I spoke with him on this subject recently he was very insistent that American life and property would be fully protected and that no real reason for withdrawal existed.

My telegrams of the last few days will indicate to you a tenseness of the present situation. The prospect of an amicable adjustment of the British Concession question here soon is not promising; unless the representatives of the two Governments approach this question in a spirit of conciliation it cannot possibly be settled and I greatly fear that the Chinese intend to insist upon concessions which the British will not be prepared to yield.

The general situation today remains unchanged and is full of possibilities. [Paraphrase.] The first time I brought the Foochow situation to the attention here of the Foreign Office was on January [omission], at the request of Consul Price, and I was given assurance that the lives and property of Americans would be protected. The measure of protection to be expected was indicated by the outbreak Sunday. To promise protection is simple enough but actually to provide it when there is mob rule prevailing, as has recently been the case here, and evidently at Foochow also, is a very different thing. As to any improvements in conditions I see absolutely no prospects, and I feel you would have complete justification for advising withdrawal [of American nationals?] from [apparent omission] and points up the river. [End paraphrase.]

2. For the immediate present and with a view to awaiting if possible concrete evidence of what Ch'en can accomplish in affording adequate protection to American citizens in areas under Nationalist control, I purpose to withhold any general warning to American citizens to evacuate such areas.

3. I am however telegraphing consul at Chungking to expedite evacuation of all Americans from his district as quickly and as quietly as possible and to American consul general at Hankow to follow the same course with respect to portions of his district from which speedy evacuation would be difficult. I am at the same time instructing consuls concerned to refrain until further notice from giving out that there is any general evacuation from these areas on the ground of their being under Nationalist control.

MAYER

393.1163/95 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, January 23, 1927—6 p. m.

[Received January 23—9:20 a. m.]

63. My 61, January 22, 6 p. m. Following from American consul general at Hankow :

"January 22, 2 p. m. My January 20, 6 p. m. Governing council yesterday instructed Commander in Chief Ho and the Fukien provisional political conference to afford protection to various missions and foreign residents of the United States and of other countries, and investigation was ordered of the recent attack on the American missions and residents. American consul at Foochow informed."

MAYER

393.11/430 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, January 24, 1927—11 p. m.

[Received January 25—10:10 a. m.]

73. My 61, January 22, 6 p. m.

1. Following two messages from American consul at Chungking, first of which has been much delayed due to the garbled transmission :

"January 18, noon. Referring to the Legation's telegram of January 13, 3 p. m.

(1) There are approximately 700 Americans and British in the Szechuan area that would be affected by the use of foreign naval force on middle or lower Yangtze.

(2) If developments should occur necessitating prompt withdrawal of even a majority of these people a hopeless congestion from Chungking would result because of inadequate transportation facilities through danger zone. February is normally low-water month and it is expected that drop in river may therefore further curtail existing transport facilities.

Under these circumstances I have already urged immediate withdrawal of all Americans west of Chungking to and including Chengtu and Yachow, withdrawal of women and children from Chungking and from Szechuan east of Chungking. Americans have begun to move through Chungking en route to Shanghai.

My desire is to reduce number of foreigners in Szechuan to a number that the available transportation facilities can care for with reasonable despatch in the event of necessity."

"January 21, noon. Referring to the Legation's telegram January 18, 11 a. m. Szechuan is quiet except for minor antiforeign disturbances unconnected with lower Yangtze. Fifty Americans and twenty-seven British subjects have withdrawn from Szechuan to date. Approximately fifty more Americans are expected to arrive in Chungking from the interior within twelve days. A considerable number of Americans have elected to remain at Chengtu 'unless ordered out by the Government'. One hundred British subjects including consul and vice consul are leaving Chengtu in parties of about thirty for Chungking. A few British subjects are electing to remain. Information concerning evacuation in the interior is very slow in reaching Chungking. So far as I have been able to ascertain, no other foreigners than Americans and British are contemplating evacuation.

After consultation with American mission and businessmen I indorse the Nanking recommendation insofar as it applies to Szechuan.

In addition to insuring safety of Americans, a general evacuation would constitute a plain warning to the Nationalists without committing the American Government and might have a moderating influence.

If the Nanking recommendation is against the Department's instructions I suggest that the Legation's instruction to me be prompt and as emphatic as possible."

2. "Nanking recommendation" referred to in last paragraph is Davis' January 16, 3 p. m., repeated to Department in Legation's 42, January 17, 7 p. m.

3. I have telegraphed American consul at Chungking in the manner indicated in my 61, January 22, 6 p. m., to Department and in view of the latest information from Shanghai (see my 65, January 24, 3 p. m., to Department²), it seemed advisable also to instruct consul at Changsha to expedite evacuation of Americans from his district while maintaining a policy of doing so quietly and without reference to evacuation from territory under Nationalist control.

4. I am gratified to note that a report from the commander of the North China Patrol, dated January 20, states that missionaries passing through Chungking are telegraphing those remaining in interior to leave immediately.

MAYER

² Not printed.

393.11/425 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, January 26, 1927—11 a. m.

[Received January 27—10:30 a. m.]

83. Following from Canton:

"I am discreetly advising Americans in the interior to leave for places of safety. This includes Canton and environs."

MAYER

893.00/8143 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, January 26, 1927—4 p. m.

[Received January 27—10:30 a. m.]

85. Following from Hankow:

"January 25, 3 p. m. Your January 22, 7 p. m. and January 23, 5 p. m. I have advised by circular instructions through representatives of missionary organizations here that all Americans in inaccessible places in this consular district should withdraw to places where transportation facilities are good; that women and children should withdraw to points easily accessible where communication lines are still intact; and that all Americans should be prepared to withdraw immediately upon warning or indications of serious antiforeign outbreaks.

Conditions are quiet in Hankow and considerably relaxed since resumption of business in British Concession yesterday."

MAYER

893.00/8149 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 27, 1927—5 p. m.

[Received January 27—4:55 p. m.]

88. Following from American consul, Amoy:

"January 26, 3 p. m. Conditions at Amoy and interior appear to be very peaceful at present; but I think that bloodshed elsewhere will probably bring forth serious state of affairs at Amoy and that, if such bloodshed occurs or if there is imminent danger thereof, a foreign war vessel should be sent at once without waiting for request from here. There is no foreign warship here at present, Japanese cruiser having left 23rd. All British subjects coming in from interior and I have advised Americans at inaccessible places that it is advisable to come. I am informed that authorities of the Tungan district have issued proclamations for protection of property and life of the missionaries."

MACMURRAY

393.11/452 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 28, 1927—9 a. m.

[Received January 29—3:45 p. m.]

90. Following from commander in chief:

"It is evident from the heavy military and naval reinforcements which are being sent to Shanghai that the British intend to defend the integrity of the Settlements and possibly take more drastic measures elsewhere. The commander in chief is of the opinion that American citizens should not remain in Chinese territory which has been evacuated by British. Clashes may arise which will stir up strong feeling against all foreigners. Under the circumstances it would seem wise to remove our people at the same time the British are withdrawn."

I have replied as follows:

"January 28, 9 a. m. The Legation on January 13th authorized all consuls in Central and South China in their [discretion] to advise the withdrawal without delay of American citizens to places where they may have protection or from which they might be evacuated if necessary.³ The Legation on January 23rd instructed the consuls at Chungking and Changsha to expedite the evacuation of all Americans in their districts as quickly and as quietly as possible. Hankow and Nanking have been instructed similarly with regard to portions of their respective districts from which speedy evacuation would be difficult.

From reports received today appears that the Americans in Changsha and Chungking districts are being evacuated as quickly as transportation facilities will permit; and these Americans in outlying districts of Hankow, Nanking and Shanghai are withdrawing to places from which they may be rapidly evacuated.

With regard to South China the evacuation of all in Foochow districts will be soon completed and in Canton, Swatow and Amoy districts they are withdrawing from remote points to places from which they may be readily evacuated."

MACMURRAY

393.11/435 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, January 31, 1927—8 p. m.

38. Your telegram 76 of January 25, 4 p. m.⁴ You should inform consuls concerned that the authorization granted to them to incur expenses actually necessary in the evacuation of American citizens covers only additional expenditures such as demurrage for vessels which may be essential in making transportation facilities available

³ See penultimate paragraph of telegram No. 26, Jan. 13, from the Minister in China, p. 45.

⁴ Not printed.

to endangered American citizens and does not include ordinary charges for transportation such as the usual steamship fares. If, however, any American citizen is unable to meet such ordinary charges they may be defrayed for him on his written undertaking to refund the amounts as soon as practicable. Inasmuch as funds for this purpose are limited, Department must be promptly informed of all expenditures authorized.

KELLOGG

393.11/431 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 1, 1927—4 p. m.

[Received February 1—2 p. m.]

103. Following from Changsha:

"January 31, noon. Your January 28, 9 a. m. Approximately one hundred and seventy Americans have been evacuated, leaving about one hundred and eighty all of whom, with the exception of twenty-five at Changsha, are going as soon as practicable."

MACMURRAY

893.00/8241

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Johnson)*

[WASHINGTON,] February 3, 1927.

Conversation

Mr. Sao-Ke Alfred Sze, Chinese Minister.

Mr. J. C. Grew—Under Secretary of State.

(Present: Mr. N. T. Johnson)

Subject: The Chinese Situation.

The Chinese Minister called upon Mr. Grew this morning and stated that he had seen a report from London to the effect that we were increasing our naval forces in Chinese waters; that he had understood the Secretary to say that we had not increased our forces and that he would like very much to have some information on the matter so that he could reassure his own people. Mr. Grew informed the Chinese Minister that he was not able to comment on statements made to the Minister by the Secretary, but that we had not increased the number of our naval vessels in Chinese waters except to send some additional destroyers from Manila to Shanghai and places on the Yangtze where the lives of Americans had been threatened. Mr. Grew stated he did not see how any Government could make any statement as to what it might do in case of any contingency. Mr. Johnson explained that the Asiatic Fleet, which was based at Manila,

consisted of two sections, one section remaining at Manila most of the year, while the other section, mostly made up of small river gunboats, were more or less permanently in Chinese waters. The Secretary had stated to the Minister that American naval vessels were in these waters for the protection of American life and property only; that the Asiatic Fleet had not been increased by one ship so far as the Department knew, although several destroyers had been sent from Manila to Shanghai and the Yangtze Valley, and that the Admiral had gone from Manila to Shanghai with his Flagship. Mr. Johnson added that the newspapers reported that marines formerly at Guam had been shifted from Guam to Manila, to be held there for emergency and some other marines had been concentrated at San Diego, eventually to be sent to Guam to replace the marines formerly at Guam. The newspapers also reported that three cruisers had been ordered to Honolulu. The Chinese Minister referred to the fact that the Secretary had promised him a memorandum regarding this Government's policy of sending its naval forces in Asiatic waters, which he had not received, thus being unable to keep his Government informed or to prevent misunderstandings. Mr. Johnson stated that he did not know exactly in what form the Secretary intended to make this memorandum but that he understood the Secretary intended to make a little memorandum stating just what vessels we had and where. The Chinese Minister stated that it was very difficult for him to keep his people informed unless he knew exactly what was going on, that he had informed them that we were not sending more vessels but that more vessels had arrived. Mr. Johnson had explained that these additional vessels were merely part of the fleet in Asiatic waters. The Minister made some remark about not being able to understand the subtleties of the English language. Mr. Grew said that we did not deal in subtleties but we dealt openly and frankly to the point; that no Government could engage not to send vessels to protect its citizens, that we could only tell him what had been done at the time we spoke and that we could not speak for the future.

The Minister stated that he had seen in the press a statement to the effect that the President had called Senator Borah into conference the other day and afterwards it was announced that the President was considering the appointment of a commission to take up the question of negotiations of new treaties with China. The Minister asked if there was any truth in this. Mr. Grew stated he knew nothing about it. Mr. Johnson referred to the articles in question and stated that he had seen a memorandum of the President's press conference but had seen no reference whatever to any such commission.

N[ELSON] T. J[OHNSON]

393.11/437 : Telegram

The Consul General at Shanghai (Gauss) to the Secretary of State

SHANGHAI, February 4, 1927—1 p. m.

[Received February 4—5:24 a. m.]

Your February 3, 5 p. m.⁵ I have not advised or suggested withdrawal of Americans from Shanghai to Manila. I have advised quiet withdrawal of women and children from the interior to Shanghai while lines of communication in the district remain open and safe and have cautioned all Americans to be prepared to withdraw without delay preferably to Shanghai or to ports where they may be protected or if necessary evacuated. Gradual withdrawal women and children to Shanghai is proceeding. The plans being worked out here in cooperation with the Navy for the safety of Americans at Shanghai contemplate that in the remote contingency that Shanghai should be attacked or any very serious disorders occur threatening safety of Americans, the evacuation of American women and children and, if necessary, men to Manila would be carried out.

GAUSS

393.11/452 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, February 4, 1927—3 p. m.

47. Your No. 90, January 28, 9 A. M., second paragraph.

1. The Department is informed that mission headquarters in the United States have received telegrams from the Treasurer of Yale-In-China stating that the American Consul at Changsha has "ordered" the departure of American citizens. The telegram states that the local situation is not serious and, while there was no apparent danger to property, the latter might be confiscated or destroyed if all foreigners were ordered to leave. Mission headquarters state no Standard Oil employees had left Hunan or Hupeh and questioned whether missionary interests were not being sacrificed unnecessarily.

2. The Department does not question the wisdom of any steps taken by the Legation or the Consulate but desires to know whether the Consulate has differentiated between Americans engaged in different pursuits or has couched the advice in the form of orders.

3. The Department would be assisted in replying to inquiries of this category by the receipt of reports of specific dangers to American interests when new dangers arise.

GREW

⁵ Not printed.

893.00/8198 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 6, 1927—11 a. m.

[Received February 6—6:05 a. m.]

115. Following from American consul general at Hankow:

"February 5, 3 p. m. *Iping* and *Chilai*, American vessels, belonging to Yangtze Rapids Steamship Company en route Chungking to Ichang with American refugees aboard, heavily fired upon at Patung yesterday. No casualties. Transportation on Ichang-Chungking route now very difficult and American vessels may be compelled to abandon service. Transportation down river from Hankow also increasingly difficult and very inadequate.

Chinese New Year period passed off quietly due partially to the continuance of very disagreeable weather. Large movement of troops down river from Hankow now in progress. Large number of troops arriving here from up river. Some of staff proceeding down river."

MACMURRAY

393.11/455 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 10, 1927—1 p. m.

[Received February 10—6:20 a. m.]

129. Paragraph No. 1. Following from American consul at Foochow:

"February 8, 3 p. m. The local situation considerably improved and I hope to be able shortly to report definitive assurances of the local authorities with respect to the future status of American industries in this district. Assuming that local conditions may justify it, do you consider that the national and international situation would yet justify any change in policy with respect to the continuation of the establishment [*evacuation?*] of the remaining Americans or the return of those who have left."

To which I have replied as follows:

"February 10, 11 a. m. In view of the uncertainty in the Yangtze Valley with particular regard to Sino-British relations, the Legation does not deem it advisable for you to sanction the return of American citizens at the present time. If those remaining in your district are so reduced in number and so situated as to be able to depart on short notice, the Legation considers the present evacuation might be suspended if in your opinion local conditions permit. Report any action which you may take; also number of Americans still remaining in your district."

2. I have quoted first sentence of Price's February 8, 3 p. m. to American consul general at Hankow with following instructions:

"February 10, 10 a. m. My February 8, 7 p. m. Following from American consul at Foochow the sense of which you may wish to

convey to Eugene Ch'en with appropriate expression of our satisfaction and hope that he will continue to lend his assistance to improvement and stabilization of conditions [in] area described."

MACMURRAY

393.11/458 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 15, 1927—3 p. m.

[Received February 15—10:15 a. m.]

144. Your February 4, 3 p. m.

1. The Legation on January 23 telegraphed Changsha to expedite the evacuation of all Americans in that district, instructing Vincent to use his best judgment as to the practical application of this measure as regarding available transportation facilities, classification and selection of individuals with regard to order of departure and other pertinent matters. On January 25th Vincent replied that he was urging Americans to withdraw, that 70 Americans had withdrawn and that many more would be leaving in the next two weeks, leaving only enough in Eastern Hunan to protect property and carry on business, most of whom lived in Changsha and could be granted asylum on the *Villalobos*. On January 28th, the Legation replied that for the immediate present it perceived no cogent objection to a very limited number of Americans remaining in Changsha for the special purposes referred to, provided that *Villalobos* was prepared to give them asylum if necessary.

2. From the foregoing it will be apparent that the Legation's instructions made no differentiation between Americans engaged in different pursuits. If these instructions have not affected business activities to the same extent as they have missionary activities, this is due to the fact that the number of American businessmen in Hunan is very limited and almost entirely resident in Changsha.

3. The Legation however referred your telegram above mentioned to Vincent who has replied as follows:

"February 10, 1 p. m. The Legation's February 7, 4 p. m. (1) No Americans have been 'ordered' to withdraw; I have again advised them and urged their departure. (2) Hundred have withdrawn leaving one hundred and thirty to go. Ten missionaries and fourteen businessmen will remain at Changsha. Standard Oil Company has four men here; they are short two men. It is true that local conditions have been comparatively quiet. Some missionaries have been loath to go but all have cooperated with me and I am convinced that there has been no local criticism of the Legation's or consulate's policy. The treasurer of Yale told me 'This action is a welcome solution of our problems.' (2) [*sic*] Nationalist Government has done nothing to prevent agitation and strikes by students and employees; effective educational and medical work was not possible, registration

was not feasible. Yale schools have been obliged to close; hospital is under Chinese board until July 1st; open but not operating; (3) [*sic*] Foreigners are remaining at Yale. Withdrawal missionaries at this time is not a particular hardship if protection against properties can be arranged; this has been accomplished in most cases. (3) Fifteen British men at Changsha. With few exceptions other foreigners have withdrawn."

4. The Legation's instruction to expedite the evacuation of Americans was dictated by general considerations and not primarily as a result of the local situation in Hunan which itself gave rise to serious apprehension. The Legation does not consider that the danger has as yet disappeared and therefore granted asylum [*sic*] prepared to approve continued residence of our nationals in Hunan or in Changsha except as indicated in paragraph number 1.

MACMURRAY

393.1163/105 : Telegram

The Minister in China (MacMurray) to the Secretary of State^{*}

PEKING, February 17, 1927—5 p. m.

[Received February 17—9:35 a. m.]

149. Following from Canton:

"February 16, 9 a. m. Numerous American missionaries who left interior stations on my advice are now beginning to drift back although we have no assurance that antiforeign crisis may not develop at any time. It is foolhardy for these people to return to the interior at present, and I venture to hope the Department may find it possible to intervene through mission headquarters at home."

I concur in Jenkins' suggestion and I am instructing him to urge all American citizens to refrain at present from returning to interior points from which they cannot be promptly evacuated in an emergency.

MACMURRAY

393.11/465 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 19, 1927—4 p. m.

[Received February 19—9:15 a. m.]

157. 1. Following from Chungking:

"February 11, 10 a. m. I respectfully offer for the consideration of the Legation the following aspect of the evacuation of Americans from Szechuan: evacuation is being effected at great individual

^{*}The substance of this telegram was communicated by the Department in a letter of Feb. 28 to A. L. Warnshuis, secretary of the International Missionary Council, New York, for transmission to mission organizations concerned.

sacrifice in the hope that definite action will be taken to accomplish a satisfactory and lasting settlement of the position of foreigners in China. The field so far as Szechuan is concerned will soon be very largely cleared. If the present crisis passes indeterminately and Americans return to their stations in Szechuan feeling that their withdrawal was unnecessary, it will be much more difficult, if not impossible, to clear the field during any new crisis in the near future.

I realize that my close viewpoint may cause me to exaggerate the importance of a clear field in its relation to the whole problem but beg to submit this aspect for what it may be worth. I have presented it to the British consul and understand that he is reporting it to his Legation."

2. To which I have replied as follows:

"February 16, 7 p. m. Your February 11, 10 a. m. The Legation believes that the present evacuation of our nationals from certain portions of the interior, particularly from Szechuan and Hunan, is fully justified whether or not any actual outrages upon individuals may or may not have occurred in these regions during a period when the serious possibility of such outrages indubitably exists. It is of course impossible to guarantee that a satisfactory and lasting settlement of the position of foreigners in China can be obtained as the result of present or future negotiations; and in these circumstances I cannot foresee that it will be possible to sanction the return of our nationals to Szechuan until there can be had an entirely new and different basis for confidence than that arising from the mere signing of agreements. Were the Legation to adopt a more lenient attitude it would be carrying an unwarranted responsibility in encouraging our nationals to reside where effective protection cannot be given and where such residence might seriously embarrass the freedom of action of the American Government with respect to the protection of Americans in China as a whole."

MACMURRAY

893.00/8365 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 9, 1927—4 p. m.

[Received March 9—9:25 a. m.]

203. 1. My 201, March 8, 5 p. m.⁷ A report just received from the commanding officer of the United States Ship *El Cano* at Ichang, dated February 18, makes the following statement partially in connection with Yangtze River transportation:

"Antiforeign demonstrations are of daily occurrence and the entire populace are beginning to become antiforeign and very bitter against the British especially. All the demonstrations are practically anti-British and in general antiforeign. It is reported that within the next few days a general strike will be called and at the same time an

⁷ Not printed.

absolute British boycott will be ordered. In all probability this boycott and strike will be effective on not only British business ashore and British steamers but on American steamers carrying British passengers as well. The days for the British, in fact all foreigners up this river, are numbered. It is my opinion that in the near future there will develop a strict boycott against everything British which will impede and possibly interrupt evacuation of British subjects in American ships. As the differentiation between British and Americans is negligible it is readily seen that this strike and boycott must eventually include all Americans too."

2. I consider this a very sound estimate of the probabilities of the situation on the Yangtze and venture to invite the Department's attention particularly to the last sentence of the quotation in connection with the withdrawal of Americans from Szechuan and all territory above Hankow.

MACMURRAY

393.1163/116 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, *March 22, 1927*—9 a. m.

[Received March 22—1:33 a. m.]

235. My 224, March 16, 6 p. m.^s Following from Chungking:

"March 19, 5 p. m. Excluding Batang there remain in Szechuan 30 Americans located as follows: Yachow, 1 woman and 1 man; Chengtu, 8 women, 1 baby and 7 men; Chungking, 11 men; Wanhsien, 1 man."

MACMURRAY

393.11/485 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, *March 22, 1927*—6 p. m.

[Received March 22—11:45 a. m.]

240. 1. Following sent to American consuls in Nationalist territory, including Shanghai:

"March 22, 5 p. m.

(1) In view of the fall of Shanghai area into the hands of Nationalist forces and the probability of incidents which might lead to antiforeign reaction throughout China, you are reminded of the Legation's telegraphic instructions of January 13, 3 p. m.,^s authorizing you in your discretion to urge American citizens to evacuate from your district, and of its telegraphic instructions authorizing you

^s Not printed.

^s See penultimate paragraph, telegram No. 26, Jan. 13, 2 p. m., from the Minister in China, p. 45.

to incur expenses in connection therewith. Any plans to that end should envisage possibility that Shanghai may not be available as a place of refuge, or even of transshipment.

(2) Please keep the Legation fully informed as to plans and progress of evacuation."

2. Above repeated to Admiral Williams with this additional paragraph:

"In connection with second sentence of above quotation may I enquire regarding feasibility of arranging a concentration point for evacuation of Americans other than Shanghai?"

3. I have repeated to American consul at Nanking my radiogram to the commander in chief, United States Asiatic Fleet, and have asked Davis to inform me by telegraph regarding feasibility of Nanking as concentration point.

MACMURRAY

393.11/489: Telegram

The Secretary of State to the Consul General at Shanghai (Gauss)

WASHINGTON, March 24, 1927—11 a. m.

Your telegram March 22, 3 p. m.¹⁰ The American Red Cross states that when you cable that an emergency exists "stating the number of Americans in actual want who have no other means of succor, the need that exists for food, shelter, clothing, etc., the plan under which relief will be administered and the amount of financial help necessary, the Red Cross will take prompt and appropriate action, as it has done in situations similar to that which may develop in China."

KELLOGG

393.11/486: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 24, 1927—4 p. m.

[Received March 24—8:50 a. m.]

247. Following from American consul general at Hankow:

"March 23, 5 p. m. Your March 22, 5 p. m.¹¹ In view of the situation at Shanghai and the critical state of affairs here due to the possible antiforeign reaction from incidents in Shanghai and furthermore to the closing of foreign banks and foreign newspapers and the general feeling of uncertainty and mental anxiety on the part of a large element of the foreign population, I have deemed it advisable

¹⁰ Not printed.

¹¹ See telegram No. 240, Mar. 22, from the Minister in China, p. 262.

to request withdrawal of American women and children. A large number of American women missionaries and their children are here at the present time and it would seem advisable for them to leave for the reasons stated. Transportation facilities are totally inadequate and there are only two American naval vessels, one of them very small, in port today. Strikes have tied up several foreign vessels in port and evacuation of women will necessarily be slow. In case of any sudden attack on the foreigners, such Americans as could be cared for could be placed aboard naval vessels until arrangements could be made for their evacuation. Several incidents involving trouble between foreigners and Chinese have been narrowly averted today and the general situation is otherwise very discouraging. As soon as the women and children are evacuated the question of the withdrawal of male members of the American community will be taken up if, in the meantime, the situation does not improve. Have about concluded arrangements for two hundred women and children to leave on the *Sui Wo* tomorrow."

MACMURRAY

893.00/8422 : Telegram

The Consul General at Shanghai (Gauss) to the Secretary of State

SHANGHAI, March 24, 1927—8 p. m.

[Received March 24—10:20 a. m.]

Local situation outside Settlement somewhat improved by efforts to suppress armed irregulars and take over situation. General Labor Union has called off general strike, and labor is beginning to resume work. In view of serious state of affairs at Nanking and reports of considerable tension at Hankow, as well as indications here of possible radical outbreaks, I have this evening broadcasted a warning in code by radio to Americans in the Shanghai consular district to withdraw to Shanghai. A number of missionaries previously withdrawn had returned to their stations in disregard of consular advice while others had refused to withdraw.

GAUSS

893.00/8432 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 25, 1927—3 p. m.

[Received 7:01 p. m.]

253. Telegram sent today to American consul at Tsinan informs him of situation at Nanking and then states:

"Legation has no information concerning a possible retreat of Northern forces from northern Kiangsu or concerning any possible leaning of Chang Tsung-ch'ang toward the Nationalist cause which might result in an antiforeign movement in your district. At the same time the Legation believes that it would be expedient for you to initiate

the withdrawal of American citizens in the southern part of your district to Tsinanfu or other suitable places.

Paragraph 3. Acknowledge the receipt of this telegram and report any action taken pursuant thereto. Keep the Legation fully informed by telegraph with regard to any matters indicating an antiforeign trend on the part of Northern militarists or Shantung officials or people."

MACMURRAY

393.11/491: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 25, 1927—9 [4] p. m.

[Received 8:33 p. m.]

254. 1. Following telegram is being sent to American consuls at Changsha and Chungking:

"March 25, 3 p. m. You are instructed to urge imperatively immediate withdrawal of all American citizens in Changsha (Chungking) and the rest of your consular district and to inform any refusing to withdraw that they do so entirely at their own risk. By way of exception to the above I assume that there is no necessity of evacuation of those resident on Tibetan border (foregoing sentence sent only to Chungking).

The Legation is considering closing the consulate and recommending withdrawal of the gunboat as soon as sufficient number of days have elapsed for Americans now remaining to withdraw. Meanwhile in an acute emergency you are authorized to close the consulate and withdraw with other Americans.

Reports from Nanking indicate existence of a most grave situation involving the loss of American and other foreign lives at the hands of the Nationalist soldiers looting consulates and withdrawal of foreigners under the protective fire of foreign gunboats.¹²

Acknowledge the receipt of this telegram and report on situation."

2. Consul general is being instructed to continue as rapidly as possible withdrawal of all Americans in Hankow and the rest of his consular district.

3. Consuls at Foochow, Amoy, Swatow and Canton are being instructed to concentrate all Americans in their districts at a point suitable for immediate evacuation with the assistance of naval vessels now at or proceeding to their respective ports.

4. I request your authorization at my discretion to direct closing of consulates at Changsha and Chungking and to recommend the withdrawal of gunboats at those places as soon as a final opportunity has been given for remaining Americans to withdraw. In that case consuls would proceed to Hankow pending further instructions.

MACMURRAY

¹² See pp. 146 ff.

393.11/490 : Telegram

The Consul General at Shanghai (Gauss) to the Secretary of State

SHANGHAI, March 25, 1927—10 p.m.

[Received March 25—4:40 p.m.]

Your March 24, 11 a.m. First two shiploads of refugees from Nanking arrive here tomorrow. Nanking consul reports that many are destitute and will require assistance. Reports from Hankow and elsewhere in Yangtze Valley state that rapid evacuation to Shanghai is taking place. This creates emergency situation with several hundred Americans in actual want and needing food and shelter, who have no present means of succor. For this purpose I urge appropriation of \$10,000 to be used under the supervision of consulate general by civilian committee already cooperating with me, reimbursement being expected where possible. In view of increasingly difficult housing problem within defense lines at Shanghai I recommend desirability of the Department suggesting to mission boards that their missionaries from other places do not remain at Shanghai but return to the United States as rapidly as accommodations offer.

Please reply as soon as possible.

GAUSS

393.11/496 : Telegram

The Secretary of State to the Consul General at Shanghai (Gauss)

WASHINGTON, March 26, 1927—2 p.m.

Your March 25, 10 p.m. You are authorized to draw upon the Department of State up to \$10,000. This sum appropriated by the American Red Cross for use as described in your telegram.

KELLOGG

393.11/495 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 26, 1927—3 p.m.

[Received March 26—7:54 a.m.]

259. Following from American consul general at Hankow:

"March 24, 5 p.m. About two hundred American women and children are now being placed aboard the *Sui Wo* which will probably sail for Shanghai tonight. Have arranged for additional boat for remaining women and children and other Americans. Situation very tense and uncertain although no disorder so far. Will concentrate American forces at consulate if emergency demands."

MACMURRAY

393.11/491 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, March 26, 1927—5 p. m.

102. Your 254, March 25, 9 [4] p. m. Authorization requested in paragraph 4 granted. Do you see any objection to making this public here?

KELLOGG

393.11/498 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 26, 1927—6 p. m.

[Received March 26—noon.]

262. Following from Foochow:

“March 25, 7 p. m.

1. Immediately upon receipt Gauss's March 24, 12 p. m., reporting Nanking situation I telegraphed to the remaining 20 Americans in the interior again urging them to withdraw immediately to Foochow. I had also arranged for concentration of all Americans at a few centers from which they may be readily evacuated and I am urging the departure as many as possible by vessels leaving 27th and 28th.

2. An anti-Christian and antiforeign demonstration involving forcible entrance to American property took place here yesterday morning which the local authorities made no effort to stop in spite of my insistent demands. The local authorities appear to be now in control but it is likely there will be repercussion when the Nanking affair becomes known and I am making every effort to impress the local authorities with their liability.”

MACMURRAY

393.11/494 : Telegram

The Consul General at Shanghai (Gauss) to the Secretary of State

SHANGHAI, March 26, 1927—7 p. m.

[Received March 26—8:20 a. m.]

Situation here today very tense and greatest precautions being taken. Chiang Kai-shek reported to have arrived here today. Consulate general continuing radio broadcast warning to Americans in the interior to evacuate. Some coming in, others known en route. Destroyer sent this evening to endeavor to take off Presbyterian missionaries at Kiangyin and Taichow on Yangtze and Seventh Day Adventists at Chiaoto Cheng [*Kiaotowchen*] near Chinkiang.

GAUSS

393.11/497: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 26, 1927—7 p. m.

[Received March 26—11:55 a. m.]

263. Navy radio of March 25th (0025-1643) states that Chinkiang situation serious. All American refugees concentrated at Socony plant and British at Asiatic Petroleum. Looting and firing in the concessions. All Americans about to leave on the steamer *Wenchow* for Shanghai.

MACMURRAY

393.11/507: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 27, 1927—7 p. m.

[Received March 27—5:51 p. m.]

267. Your 102, March 26, 5 p. m. Following is being sent to American consuls at Changsha and Chungking:

"March 27, 7 p. m. Legation's March 25, 3 p. m.

No. 1. You are instructed, as soon as you have given a sufficient length of time for the Americans remaining in your district to withdraw, to close the consulate, remove the archives and proceed to Hankow pending further instructions. Report by telegraph your recommendations with reference to custody of premises, conservation of Government effects and rental payments required by lease.

No. 2. The foregoing does not cancel the authorization granted you in my March 25, 3 p. m. in an acute emergency to close the consulate at once and withdraw with other Americans.

No. 3. I am taking up with the commander in chief the matter of the withdrawal of the gunboat simultaneously with closing of consulate."

I recommend full publicity be given to this proposed measure and am informing press representatives here 28th.

MACMURRAY

393.11/499: Telegram

The Consul at Mukden (Sokobin) to the Secretary of State

MUKDEN, March 28, 1927—9 a. m.

[Received March 28—6:08 a. m.]

I venture to suggest full publicity be given to the fact that Americans in Manchuria are in nowise affected by the events in the Yangtze Valley; situation here absolutely normal.

SOKOBIN

393.11/509 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 23, 1927—1 p. m.

[Received March 28—9:36 a. m.]

268. Following received from American consul, Amoy:

"March 27, noon. Your March 25, noon, and March 25, 8 p. m. I have notified Americans [to] concentrate at Amoy. Local conditions quiet at present. Twenty-one Americans returning to Foochow left steamer at Amoy, March 25th, on my advice Price agreeing, but five, including Bishop Brown particularly, today have decided to proceed. Japanese warship here, British warship expected to arrive. Believe that settlement is safe as long as naval forces are present."

MACMURRAY

393.11/505 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 28, 1927—2 p. m.

[Received March 28—10:02 a. m.]

269. Following received from American consul general at Canton:

"March 26, 1 p. m. Your March 25, 3 p. m., received by radio and cable. I am warning Americans in Canton and suburbs to be prepared for immediate evacuation. Those still in the interior are being urged to proceed to Hongkong as soon as possible.

"I have just seen garrison commander and chief of police who promise to protect foreigners. I hope to see commander in chief of this province this afternoon. There is no indication of disorder but split between moderates and radicals, recent British attack on the Bias Bay pirates, and the strike of certain employees at Canton Christian College, are cause for apprehension. I will continue to keep the Legation informed."

MACMURRAY

393.11/512 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 28, 1927—8 p. m.

[Received March 28—6:40 p. m.]

273. Following telegram has been sent to American consul general, Hankow:

"March 28, 7 p. m. Legation has today addressed following communication to all American missions, companies and individuals in all districts of northern Honan south of Yellow River: 'In view of the present civil warfare Legation earnestly advises all American citizens to withdraw from all districts of Honan south of Yellow River.'"

MACMURRAY

393.11/519: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 29, 1927—11 a. m.

[Received 4:12 p. m.]

276. Following telegram has been sent by the Legation to all American missions, companies and individuals in northern Anhwei and northern Kiangsu.

"March 26, 5 p. m. In view of present civil warfare Legation earnestly advises that all American citizens evacuate Anhwei and Kiangsu. From available information it appears doubtful whether departure via Yangtze is practicable."

MACMURRAY

393.11/513: Telegram

The Vice Consul at Tsinanfu (Swaney) to the Secretary of State

TSINANFU, March 29, 1927—1 p. m.

[Received March 29—5:56 a. m.]

Evacuation of American citizens in southern Shantung is progressing satisfactorily although railway transportation badly broken. The consulate is endeavoring to withdraw 16 Americans from Hwaiyüan, Anhwei. Every precaution is being taken for protection and safety American citizens here, although there is no pronounced antiforeign feeling. The Legation has directed the consulate to keep the Department fully informed.

SWANEY

393.11/518: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 29, 1927—5 p. m.

[Received 6:40 p. m.]

282. Following from American consul at Hankow:

"March 25, noon. Following has been sent Gauss at Shanghai: 'March 25, 11 a. m. Approximately two hundred and fifty Americans mostly missionaries, women and children, left here early this morning on the *Sui Wo* for Shanghai. I suggest necessary arrangements be made for their landing or transshipment if necessary. No disorders here but an exceedingly tense and uncertain situation prevails. Remaining American women in port are being placed on the *Loongwo* today which may sail tomorrow. It is understood that several prominent officers of the Nationalist Government are proceeding to Shanghai. I am also informed J. B. Prohme, editor of the *People's Tribune*, official organ of the Nationalist Government, left here on the *Sui Wo* last night. This has not been confirmed. Eugene Ch'en has given both myself and the British consul general emphatic promises that order will be maintained in Hankow. Notwithstanding this I deem it advisable to put remaining women and

children aboard steamers in port here. My family safely aboard Standard Oil Company boat *Mei Chuen* now here.'

Pell informed: 'I have deposited . . . code and confidential and important papers on U. S. S. destroyer *Pruitt* and taken receipt. I am taking every possible precaution for the protection of American lives and property.'

MACMURRAY

393.11/521 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 30, 1927—3 p. m.

[Received March 30—9:05 a. m.]

295. Lockhart telegraphed March 27, 4 p. m., that missionaries there now remain in Hankow: 26 men, 11 women and 9 children. There are also 93 other Americans of whom 19 are women and 8 children. There have been evacuated since March 24 approximately 353 Americans. Fresh arrivals almost daily from the interior. Remaining Americans will be evacuated as rapidly as possible. No disorder thus far but situation remains tense. All codes, certified papers, deeds, books and accounts have been deposited on naval vessels for safe keeping.

MACMURRAY

893.00/8488 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 30, 1927—5 p. m.

[Received March 30—2:25 p. m.]

297. 1. Following from American consul general at Hankow:

"March 26, 3 p. m. Information received from source which has heretofore proved reliable indicates that Fengtien troops on or about March 31st evacuated Chengchow and Kaifeng and that the First Army, formerly loyal to Wu Pei-fu, is now definitely aligned with General Chin Yun-ao¹³ and that the Eighth Army is so aligned also. All troops in south Honan of these organizations were moving north on March 21st and it is generally believed in military and Nationalist political circles here that practically all that part of Honan south of Yellow River is now in the hands of the Nationalists. I cannot vouch for the accuracy of this but reports have been persistent to this effect for several days. Approximately three thousand troops have left Hankow within the last few days for the north.

There has been no disorder in Hankow for the last few days. The police commissioners last night sent instructions to the police authorities at Nanking to maintain the strictest order and to protect foreign lives and property. Ch'en informs me that previous to this action several such telegraphic instructions were sent by him. I had long

¹³ Vice commander under Wu Pei-fu, but at this period he had joined the Nationalists.

talk with Ch'en recently, explaining circumstances of Nanking incidents as I understand them and vigorously protested attacks on American citizens, looting of the consulate and injury to other American property. I think the Nationalist authorities realize the gravity of the situation. With the exception of the two young women stenographers of this consulate who are sleeping aboard Standard Oil Company ship at night, there are practically no American women ashore at Hankow and Wuchang. The *Loongwo* will sail tomorrow morning with about one hundred twenty-five American women and children. All arrangements made for complete evacuation of remaining Americans numbering approximately one hundred in case of emergency."

2. "March 29, 4 p. m. Some American businessmen and missionaries are [showing] great reluctance to leave, but quite a few, including several women, are leaving tonight on the *Shasi*, a small steamer, for Shanghai. Number will be telegraphed tomorrow. No more sailing for several days. No disturbances here so far except usual street speaking by propaganda squads and exorbitant charges for handling baggage and other incidentals of this character."

3. Reliable reports received by military attache's office are to the effect that while the Northern troop[s] experienced certain difficulties in regard to Kai[feng] they now hold place and Chengchow.

MACMURRAY

893 00/8492 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 31, 1927—2 p. m.

[Received March 31—9:09 a. m.]

302. Following from American consul, Chungking:

"March 29, 6 p. m. Antiforeign agitation has commenced here. Attitude of the authorities is satisfactory but their control is inadequate. No Americans reside in Chungking City. Because of necessity of daily communication with American gunboat and in order to avoid risking incident, I shall on March 30th move consulate to gunboat."

MACMURRAY

393.11/543 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 31, 1927—6 p. m.

[Received March 31—12:40 p. m.]

305. Your number 102, March 26, 5 p. m.

1. Legation received March 30th from local representative Standard Oil Company, following text of telegram received by him from Shanghai office of company:

"Please advise American Legation that we protest against reported contemplated closing of consulate and withdrawing gunboats from Chungking and also Changsha, respectively."

2. I am replying today that the Legation March 27th instructed the consuls at Changsha and Chungking as soon as a sufficient length of time had been given for the Americans remaining in their districts to withdraw, to close their respective consulates and proceed to Hankow; that the commander in chief has issued instructions for the gunboats to withdraw from these ports simultaneously with the departure of the consuls; and that the substance of the foregoing was released to the press representatives in Peking on March 28th.

MACMURRAY

393.11/554a : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, March 31, 1927—7 p. m.

112. National City Bank of New York and Standard Oil Company of New York inform us that they have been informed that American Consul at Hankow has issued evacuation order effective Sunday covering all American business men. They state that their information indicates that present naval force can protect foreigners if they are concentrated on river front and that complete withdrawal from Hankow means great loss of national prestige and would seriously injure their interests and they hope that, unless the military necessities imperatively require [it], complete evacuation will not be ordered. We have informed them that we do not know of any such complete evacuation order. Please communicate to Lockhart and ask him for information which can be transmitted to companies here.

KELLOGG

393.11/526 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 31, 1927—8 p. m.

[Received March 31—10:10 a. m.]

307. Following additional information American consul at Swatow:

"All Americans in outlying districts now concentrated and being held in Swatow except six Catholic missionaries in Kay [garbled group] district; they have been urged to leave. Local conditions remain quiet."

MACMURRAY

393.11/527 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 31, 1927—9 p. m.

[Received March 31—10:15 a. m.]

308. Following from American consul at Foochow:

"March 30, 10 a. m. 1. Local conditions quiet. There has been as yet no unfavorable reaction from the affair at Nanking. Of the

112 Americans now in consular district, approximately 20 will not leave their stations in the interior and in the event of emergency could not be evacuated, about the same number expected to leave shortly, while the remainder intend to remain until it becomes necessary for all to withdraw. The above-mentioned include 2 men, 9 women, 1 child previously evacuated who have returned against my advice."

MACMURRAY

393.11/603 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 1, 1927—1 p. m.

[Received April 1—10:45 a. m.]

313. Yangtze Patrol commander telegraphs March 31, 1 p. m., that consulate at Chungking was closed and sealed March 30, 8 a. m., and consul and vice consul now on board *Monocacy*; that British gunboats due to sail down river March 31st; that American consul proposes waiting Chungking until word is received from persons in outlying districts as to their intentions concerning withdrawal; and that local situation Chungking is growing worse.

MACMURRAY

893.00/8501 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 1, 1927—2 p. m.

[Received April 1—7:06 a. m.]

314. Following from American consul general, Hankow, has been repeated to commander in chief:

"March 31, 3 p. m. Requested that naval forces be augmented, passenger ships to be convoyed through to Shanghai. Many American[s] refusing to leave without such convoy."

MACMURRAY

393.11/543 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, April 1, 1927—4 p. m.

113. Your 305, March 31, 6 p. m. Protests have also been filed here by Standard Oil Company as well as by Texas Company. Department is informing companies that in view of grave situation existing at Changsha and Chungking Department authorized action recommended by your telegram No. 254 of March 25, 9 [4] p. m. Standard Oil Company informs us that British and Japanese are not taking action similar to this. Can you inform Department on this point?

KELLOGG

393.11/530: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 1, 1927—6 p. m.

[Received April 1—10:35 a. m.]

315. Following from American consul at Hankow:

"March 31, 4 p. m. *Shasi* sailed this morning for Shanghai with 12 Americans including 4 women. *Tungwo* will sail tomorrow morning with approximately 40 Americans. Foreign banks and newspapers still closed and business practically at a standstill with no immediate prospects of improvements."

MACMURRAY

393.11/537: Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, April 2, 1927—3 p. m.

[Received April 4—5:04 a. m.]

With possibly one or two exceptions all American women and children have been evacuated from Nanchang, Kiukiang, Wuchang and Ichang. Only a few American men remain in these three ports. There are 146 Americans at Hankow, 38 of whom are women and 16 children. Fresh arrivals daily from interior just about offset departures. Large number of women and children and some men are leaving tomorrow on the *Woosung* and *Luenho*. After these departures there will probably remain in Hankow considerably less than one hundred Americans, nearly all of whom will be men and can be easily evacuated in emergency.

Under instructions from Legation I will report directly to Department by telegram any important developments here.

LOCKHART

393.11/536: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 2, 1927—4 p. m.

[Received 6:22 p. m.]

321. Your 112, March 31, 7 p. m.

1. Please refer to Legation's 254, March 25, 4 p. m., second paragraph.

2. In reply to an inquiry from Lockhart as to the inclusiveness of the Legation's telegram to him of March 25, 3 p. m., the Legation replied April 1, 3 p. m., as follows:

"The Legation's telegram applies to all Americans including men as well as women and children. The Legation will not however for the immediate present object to such American men remaining in

Hankow as may be indispensably necessary provided that their numbers are small and that the gunboats are prepared to evacuate them if necessary. All such persons remain entirely at their own risk."

3. With reference to the "military necessities" referred to in your telegram I quote the following from a telegram April 1st from the commander in chief repeating the views of the Patrol commander with regard to the evacuation of Americans in the Yangtze Valley.

"I believe that regardless of policy adopted by our Government complete evacuation of our nationals must take place and so recommend. Consider that if Americans are permitted to remain at Hankow a much stronger force is required than that available at present."

I concur in the views expressed by Admiral Hough.

MACMURRAY

893.00/8528 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Extract—Paraphrase]

PEKING, April 2, 1927—5 p. m.

[Received 9:30 p. m.]

322. . . .

4. Uneasiness among Americans in Peking is spreading. Several missionary institutions have asked that all their members who plan to take leave before August 1 do so immediately. Other such institutions are advising many of their members to take their leaves ahead of schedule. Institutions are being encouraged by the Legation to evacuate women and children as fast as can be done without attracting attention, so as not to start a stampede.

MACMURRAY

393.11/535 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 2, 1927—7 p. m.

[Received April 2—6:32 p. m.]

324. Legation's 254, March 25, 4 p. m. Following from American consul at Chungking:

"March 31, 5 p. m. Legation telegram dated March 25, 3 p. m. received. In accordance with previous instructions Americans on Tibetan border were requested to withdraw.

Anti-American and anti-British demonstration is being held today in Chungking.

At the last moment yesterday the American Oriental Bank was sold to Chinese and a disaster narrowly averted. All local Americans are now concentrated on American gunboat and Standard Oil Company motor ship. We are now, at the risk of losing pilots, awaiting word from interior Americans. Last night Liu Hsiang informed me that local Communists are seeking to precipitate serious incident involving foreigners that might compromise. His statement is a conservative estimate of the situation. He assumed full responsibility for the protection of American lives and property and will, I believe, do his best to prevent unfortunate developments. His troops are reliably reported to have killed a considerable number of agitators in Chungking today."

MACMURRAY

893.00/8555 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, April 3, 1927—8 p. m.

[Received April 4—10:18 a. m.]

Rioting started in Japanese Concession late this afternoon due to dispute between Japanese sailor and rikshaw puller. Machine-gun fire was employed to disperse the mob and it is understood that perhaps ten or twelve Chinese have been killed. Casualties not yet known. Japanese are now hurriedly evacuating in great numbers in small boats and whatever is available. The mobs have set fire to a Japanese godown. All Americans have been notified to go to boats for the night preparatory to leaving the port. Large number sailing tonight. Entire city greatly excited.

LOCKHART

893.00/8608 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, April 4, 1927—3 p. m.

[Received 3:42 p. m.]

Still impossible ascertain exact number of casualties in yesterday's riots in Japanese Concession but best information indicates eight or ten Chinese killed, four Japanese sailors missing, said to be at labor union headquarters. Japanese volunteer and naval forces are in full control of situation in Concession today with machine guns at strategic points. Japanese have let it be known that they will defend Concession at all costs. One warehouse destroyed by fire. Pickets in ex-German Concession preventing anyone from entering Japanese area.

No disorders elsewhere in Hankow but situation very problematical.

LOCKHART

893.00/8574 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 5, 1927—noon.

[Received April 5—7:55 a. m.]

339. Following to Tsinan:

"April 5, 11 a. m. Your April 3, 11 p. m. British Legation states that general evacuation instructions have been issued for all British subjects in the interior but that it remains optional with consuls to instruct withdrawal from inland treaty ports such as Tsinan. Expedite withdrawal of all Americans to seacoast treaty ports except those in Tsinan whom you may direct to leave at your discretion. Those withdrawing should be prepared for possibly indefinite absence."

MACMURRAY

893.00/8576 : Telegram

The Consul at Tientsin (Berger) to the Secretary of State

TIENTSIN, April 5, 1927—noon.

[Received April 5—12:03 p. m.]

Tientsin quiet but considerable apprehension prevails. I am informed by an absolutely reliable eyewitness that the Kuominchun are moving through Shansi to Shihchiachuang [*Schihchwang?*] and have arrived at Niantzekwan marching at night. Fengtien has no troops in that area neither are there troops in Tientsin or Peking sufficient to suppress disturbances which will occur when Kuominchun shall have reached its destination and Nationalist forces attack Hsüchowfu. Police in Tientsin and Peking cannot be depended on to maintain order, they have been thoroughly demoralized during the period of the Fengtien occupation. Agitators in Tientsin in large numbers well organized but are not openly active at present. Shansi students active politically. In case of emergency protection of life and property of Americans must be provided by ourselves, Chinese authorities cannot be relied upon. I have informed Americans in my district other than Peking that they should come to Tientsin as soon as practicable, 14 Americans at Shuman [*Shunan?*] will leave for Tientsin, 7th. Many Americans from Shansi en route or have arrived in Tientsin, about forty from Kiangsu have come to Tientsin.

BERGER

893.00/8609 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, April 5, 1927—4 p. m.

[Received April 6—6:21 p. m.]

My April 3, 8 p. m. Evacuation of Japanese women and children still continues. Strict patrol of Japanese Concession by volunteers

and naval forces still maintain. All Japanese banks and business houses in other concessions strongly picketed and Japanese business completely paralyzed. The affair Sunday is culmination of long series of irritating incidents directed towards Japanese. Three Japanese destroyers arrived this morning and all Japanese refugee ships are being convoyed down river. There is constantly increasing unemployment and a continued suspension of all foreign banks is adding difficulties to an already complicated and demoralized economic situation. There is growing unrest among coolie element and local situation is full of serious possibilities. Legation informed.

LOCKHART

893.1115 Wright, Lucy : Telegram

The Consul at Chefoo (Webber) to the Secretary of State

CHEFOO, April 5, 1927—4 p. m.

[Received April 6—10:30 a. m.]

In reply to Department's telegram April 4, 6 p. m.¹⁴ Miss Lucy Wright and other missionaries Baptist Hospital, Hwanghsien, now safe and well in Chefoo. In view of the uncertainty of conditions, possible break-down communications motor roadway, Chefoo, Weih-sien, and recommendation made by Chinese authorities, all women and children and practically all left in the district have come to Chefoo.

WEBBER

393.11/544 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 5, 1927—5 p. m.

[Received April 5—7:55 a. m.]

344. Your 113, April 1, 4 p. m. British withdrew consul and gunboats from Chungking on March 31st and will withdraw from Changsha on April 5th. Japanese have not withdrawn consuls and gunboats from either place.

MACMURRAY

893.00/8572 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 5, 1927—6 p. m.

[Received April 5—6:40 a. m.]

345. 1. About January 6 the British ordered the evacuation of all their nationals from areas under Nationalist control to the treaty ports

¹⁴ Not printed.

with consular discretion as to evacuation from treaty ports when necessary. They have now issued the same instructions with regard to the withdrawal of all of their nationals from the interior of North China.

2. Regarding Japanese withdrawal, please see my telegram 329, April 3, 4 p. m.¹⁵

MACMURRAY

893.00/8584 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 6, 1927—1 a. m.

[Received April 5—3:55 p. m.]

352. 1. Patrol commander telegraphed April 4 that at Chungking on April 3 it was necessary for armed guards from the *Monocacy* to use rioting guns to keep off Chinese from the American steamer *Chinan* who were determined upon revenge because of removal of unauthorized cargo endangering ship. Three Chinese were wounded, of whom one died. The matter was settled by steamship company compensating family and no reaction expected.

2. No Americans are leaving Yachow and Chengtu. *Monocacy* escorting *Chinan* and Socony steamer leaving Chungking April 4 with all remaining Americans and British.

MACMURRAY

393.1163/135 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 6, 1927—2 a. m.

[Received April 5—12:08 p. m.]

353. 1. Following from American consul at Shanghai:

"April 4, 3 p. m. Bishop Roots at Hankow has telegraphed for the return there of certain men and women of his mission to reopen schools. I have informed local mission representative that if these Americans attempt to return I will ask my colleagues to have shipping companies refuse them transportation and have asked Lockhart so to inform Bishop Roots."

2. I am telegraphing Gauss that I fully approve his attitude.

MACMURRAY

¹⁵ Extract—paraphrase: "My Japanese colleague has recommended to his Government that all Japanese in Nationalist territory, about 2,000, be withdrawn." (File No. 893.00/8529.)

893.00/8585 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 6, 1927—3 a. m.

[Received April 5—3:45 p. m.]

354. Following from Patrol commander:

"0304. *Palos* evacuating Changsha as soon as possible. Labor agitation developing over night makes this imperative. Consul estimates will be ready leave April 7. 1329."

MACMURRAY

393.11/551 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 6, 1927—6 a. m.

[Received April 5—6:40 p. m.]

357. Following from American consul at Hankow:

"April 4, 5 p. m. Twelve Americans departed via *Woosung* yesterday morning; 9 by the *Kian* and 25 via *Woon Ho* last night. There remain here 89 men, 19 women and 12 children. Nearly all these are sleeping aboard ships. Additional departures tomorrow or next day. Admiral Hough¹⁶ returned here this morning."

MACMURRAY

893.00/8605 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING. April 6, 1927—11 a. m.

[Received 3:07 p. m.]

360. Yangtze Patrol commander telegraphed April 5th as follows:

"That conditions at Hankow very bad, all business at standstill, Japanese evacuating into steamers, about 100 French, Belgian, and Switzerland civilians remain, British and American civilians living close to waterfront and prepared to evacuate on short notice, present Americans at Hankow approximately 105, but expect this to be reduced within week to 35 or 40, these all business heads who are required to remain to the end on the understanding that they remain at own risk; that if situation grows worse, they will be required to remain on board ship in the harbor except for necessary business on shore; that it is not considered desirable to evacuate until British leave."

MACMURRAY

¹⁶ Rear Admiral Henry H. Hough, U. S. N., commander of the Yangtze Patrol.

893.00/8593 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 6, 1927—noon.

[Received April 6—10:30 a. m.]

361. Patrol commander telegraphed April 5th as follows:

"0305. Reported Japanese expect to evacuate Chungking as soon as steamer is available.

Americans remaining Szechuan, at Chengtu 16, at Yanchow 2, location unknown 1. 1600."

"0305. At Changsha general strike against American firms and boycott against American goods declared noon yesterday.

Crews Socony launches striking. 1645."

MACMURRAY

893.00/8606 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 6, 1927—4 p. m.

[Received April 6—3:18 p. m.]

365. Following from American consul at Tsinanfu:

"April 5, 2 a. m.

1. All British subjects in this district have been instructed to withdraw to seaboard by April 8th. Because of the apparent increasing seriousness general conditions, the consulate has strongly urged all Americans remaining in this district to withdraw to Tientsin Tsingtao by next Saturday. Principal foreign firms have withdrawn staffs here and by April 10th, insofar as can be determined, only 6 American men will be remaining in Tsinanfu excepting 11 members of Catholic mission.

2. There is no pronounced antforeign feeling and the consulate has been assured by provincial authorities that every protection will be given foreign life and property. All arrangements have been made for transferring administration of Shantung Christian University, including hospital and mechanic school, to Chinese staff. At present there is no cause for anxiety over local conditions."

MACMURRAY

393.11/555 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 7, 1927—9 a. m.

[Received April 7—3:22 a. m.]

367. Following from American consul at Chungking:

"April 4, 11 a. m. We sailed from Chungking this morning on friendly terms with Chinese authorities."

MACMURRAY

893.00/8621 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 7, 1927—1 p. m.

[Received April 8—9:25 a. m.]

370. Yangtze Patrol commander telegraphed April 7 as follows:

"Situation Hankow steadily growing worse. Japan[ese] evacuation continues large number. One hundred Germans have requested cost of charter *Chi Huen* for evacuation purposes. Japanese civilian shot in head by Chinese soldiers outside Japanese Concession took refuge 2 a. m. in *Pigeon*. Fights between groups coolies ashore more frequent. Russians beginning to evacuate. Lawlessness increasing with no apparent effort on part Government to check. Am bringing all pressure to bear on Americans to have their evacuation and those who remain to base upon steamer *Para*. Additional Japanese light cruisers arrived today."

MACMURRAY

893.00/8615 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 7, 1927—3 p. m.

[Received April 7—12:40 p. m.]

372. Following from American consul at Foochow:

"April 5, 1 p. m. Continuing my April 4, 3 p. m. Reports just received indicate that what virtually amounts to anti-Communist *coup d'état* involving complete change in the provincial administrative personnel has taken place, said to have been directly under orders Chiang Kai-shek. While the strictly local situation appears to be for the time being improved, the Japanese are today evacuating Foochow women and children in view of the recent developments in Hankow. Are you in a position to state whether you consider that complete evacuation Americans from Foochow will become necessary in view of those or other developments."

I am replying as follows:

"(1) April 7, 5 p. m. Your April 5, 1 p. m. I am not in a position to say whether complete evacuation will become necessary, which is primarily a matter for your discretion. Meanwhile follow instructions contained in the Legation's March 25, noon."

See Legation's number 254, March 25, 4 p. m., paragraph 3.

MACMURRAY

893.00/8618 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 7, 1927—5 p. m.

[Received April 7—2:02 p. m.]

374. Legation's number 337, April 5, 10 a. m.¹⁷ and 354, April 6, 3 a. m. Following from American consul at Changsha:

"April 4, 10 p. m. My April 3, 10 a. m. Forced strike of employees of American companies and consulate, boycott of Americans and strong anti-American agitation developing suddenly today have caused me to alter the date of closing consulate to April 6th. All Americans have been advised to evacuate and most of them with homes in west Hunan will withdraw with me.

Standard Oil Company shops closed today by labor union and its office and installation occupied by pickets. American business community have moved aboard Standard Oil Company *Mei Yun*. Missionaries prefer to remain in city until evacuation.

Customs commissioner and foreign staff expect to leave with me. Have abandoned plan of having German occupy consular residence."

MACMURRAY

893.00/8616 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 7, 1927—7 p. m.

[Received April 7—12:27 p. m.]

376. Following from American consul at Canton:

"April 4, 1 p. m. Referring to my telegram of April 3, noon. Demonstration pending for today has been postponed until the 12th, probably by order of the local authorities. Antiforeign feeling seems to be increasing and I am advising missions in Canton and suburbs to send away as many women and children as possible."

MACMURRAY

393.11/562 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 8, 1927—1 p. m.

[Received April 8—8:55 a. m.]

381. Following from American consul at Hankow:

"April 7, 5 p. m. Forty-four Americans left on *J. Wo* last night and twelve on *Po Yang*; there now remain seventy-six men, six women and five children. Additional contingents leaving in a day or two."

MACMURRAY

¹⁷ Not printed.

393.11/563 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 8, 1927—3 p. m.

[Received April 8—11:04 a. m.]

383. Pursuant to the Department's suggestion in last paragraph of its 123, April 4, 3 p. m.,¹⁸ and consonant with the policy outlined in my 322, April 2, 5 p. m., I have directed that all women and children of the Legation leave China at an early date.

MACMURRAY

125.494/5 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 8, 1927—5 p. m.

[Received April 8—4:27 p. m.]

385. My 260, March 26, 4 p. m.¹⁹ Americans in Kalgan have been instructed to withdraw. I respectfully repeat recommendation that consulate there be closed, as soon as Americans evacuated.²⁰

MACMURRAY

393.11/577 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, April 8, 1927—6 p. m.

[Received April 10—2:40 p. m.]

Japanese women and children and some men still being evacuated. Eighty-six Americans still here. This will be reduced further in a few days. Have received urgent appeals for the chartering of a merchant ship to be retained in harbor here as place of temporary refuge and not for evacuation purposes except case of acute emergency for Americans pending winding up affairs preparatory leaving. If situation shows no improvement I shall charter such ship since now unsafe remain ashore at night. Many Americans sleeping aboard ship greatly inconvenienced account of constant changes. Approximate cost \$500.00 Mexican daily, of which businessmen, missionaries could bear part. Request prompt reply.

Chinese traders and merchants now refuse to accept foreign bank notes. I am thoroughly convinced that closing of foreign banks and newspapers is part of campaign to drive them out. Situation is gradually developing to a point where it will be utterly impossible for foreigners to remain here and carry on. I fail to see any in-

¹⁸ *Ante*, p. 101.¹⁹ Not printed.²⁰ The consulate at Kalgan was temporarily closed April 23. It was permanently closed September 30 and the consular district incorporated into the Tientsin consular district.

telligent effort being put forward to enable foreign businessmen and missionaries to renew their activities. The present delicate situation cannot possibly continue without another serious incident of some kind.

Legation informed.

LOCKHART

893.00/8627 : Telegram

The Consul at Tientsin (Berger) to the Secretary of State

TIENTSIN, April 8, 1927—8 p. m.

[Received April 9—3:08 a. m.]

Tientsin consular district remains quiet. Reliable informants report elaborate preparations in Shansi to declare for Nationalist cause at an opportune moment. Various societies among the natives of southern Chihli, including the Boxers, are preparing to avenge themselves upon the Fengtien military authorities by murdering the small garrison in that section. Chinese police authorities raided all Soviet institutions in Tientsin excepting consulate general, and including Soviet Trade Mission and Dal Bank, yesterday; nothing of importance found. This was to be expected since Tientsin had 24-hour warning through similar raids in Peking. All American women and children and most of men in Shansi and south Chihli are en route to, or have arrived, here. Those from Shensi and Kansu reported to be en route.

BERGER

893.00/8628 : Telegram

The Consul at Chefoo (Webber) to the Secretary of State

CHEFOO [, undated].

[Received April 9, 1927—9:55 a. m.]

All American missions (Baptist and Presbyterian) in this district outside of Chefoo have either closed or transferred control for the time being to the Chinese. All American missionaries have now come to Chefoo where proper protective measures in case of emergency have been taken. No Americans left in interior. Total Americans in Chefoo, 24 men, 51 women, 46 children, grand total 121. All British subjects in this district have been instructed by consul here to withdraw to Chefoo or Weihaiwei by April 8th. At present Chefoo is quiet and there is no cause for anxiety. No anti-foreign or anti-Christian feeling. However, feeling for the Nationalists growing stronger daily and any act by foreign powers against the Nationalists would probably incite masses here against

the foreigners. Provincial authorities have assured me every protection will be given foreign life and property. Owing to dissension among themselves it is doubtful if they could handle situation if occasion demanded it. U. S. S. *Preston* in port.

WEBBER

393.11/574 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 9, 1927—11 a. m.

[Received April 9—10:40 a. m.]

389. Following from American consul at Tsinan:

"Number 1. April 8, 3 p. m. The local situation remains quiet. All Americans in Anhwei and Kiangsu mentioned in the consulate's despatch number 155 of March 30, have been successfully evacuated. Approximately 285 Americans have withdrawn from this district to Tsingtau, Tientsin and about 70 remain, many of whom are now on their way out to the seacoast. All British women and children, as well as American, have left Tsinanfu and excepting 6 members of the Catholic mission. Only 5 American men remain here. Full report by mail regarding evacuation about April 12th.^{20a} Not repeated to Department of State; by mail to Tsingtau, Chefoo, Tientsin."

MACMURRAY

393.11/575 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 9, 1927—2 p. m.

[Received April 9—1:20 a. m.]

391. 1. Following from the American consul at Tsingtau:

"2. April 8, 9 a. m. Total number of Americans reported to this consulate to April 7th, inclusive: Men 44, women 87, children 119; total 250. By April 9th, 40 will have left for Japan and the United States. These totals do not include resident Americans: Men 41, women 39, children 45; total 125. There are 50 or more who would go to the United States but seem unable to secure accommodations. Would it be possible to arrange passages on Government transports shortly? There is an impression among the missionaries that the Government is arranging for transports to relieve congestion at Shanghai. If this is so could not plan be extended to this port?"

2. I am replying as follows:

"2. April 9, 4 p. m. Your 1 [2], April 8, 9 a. m. I have no information to the effect that the Government is arranging for transports to relieve the [congestion] at Shanghai but I shall endeavor to keep you informed on the matter."

MACMURRAY

^{20a} Not printed.

393.11/579 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 9, 1927—5 p. m.

[Received April 9—3:05 p. m.]

393. Following from Vice Consul Vincent on board U. S. S. *Palos*:

"April 7, 10 p. m. The consulate was closed and sealed this morning; the archives and correspondence are with me. Japanese gunboat and steamer left Changsha this morning with all Japanese and 6 Americans on board; *Palos* withdrew this afternoon escorting Standard Oil Company vessels with 6 Americans on board. All of the vessels are anchored tonight 28 miles below Changsha. Expect to reach Hankow Saturday morning.

All Americans have withdrawn with the exception of 12 Catholics in west Hunan who have telegraphed that they are unable to depart (presumably because of bandits).

Changsha was quiet when we withdrew. Anti-American feeling is strong but has not resulted in violence."

MACMURRAY

893.00/8646 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, April 10, 1927—2 p. m.

[Received April 11—9:21 a. m.]

12. There have been 1,400 Japanese evacuated, approximately 1,000 being women and children. Less than 100 women and children remain and about 800 men. About 75 Americans remain, most of these being indispensable to business and other American enterprises.

The situation having become so uncertain and the commander of the Yangtze Patrol having served notice that under no conditions will attempt be made to defend any point in case of trouble other than the consulate, and that only during actual evacuation, I chartered the *Kiangwo* late yesterday as a refuge for Americans. This action was taken at the urgent request of the Admiral. Charter runs for 10 days and exact expense cannot yet be computed by company. Will telegraph cost later. Most Americans sleeping aboard.

Large bodies of troops, estimated at about 12,000 and belonging to Fourth and Eleventh Armies, observed yesterday on south bank of river opposite Hankow moving downward. Many troops moving out of Hankow and apparently proceeding to the north.

Have placed aboard naval vessels all arms, equipment and ammunition belonging to the American volunteers and to the consulate. Legation informed.

LOCKHART

393.11/580: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 11, 1927—1 p. m.

[Received April 11—3:55 a. m.]

404. Following from American consul, Tsingtau:

"5. April 10, 9 a. m. Americans reported to this consulate to April 9th, exclusive of residents: men 69, women 128, children 140; total 337; departed 35. All Southern Presbyterian missionaries from Tsing-kiangpu, Hwaiianfu, Sutsien, have arrived here and all Haichow except Grafton and Morgan families who are due here today."

MACMURRAY

393.11/577: Telegram

The Secretary of State to the Consul General at Hankow (Lockhart)

WASHINGTON, April 11, 1927—4 p. m.

Your April 8, 6 p. m. This Government is prepared to pay its proportionate share for the purpose of chartering ship to take care of you and your staff while you remain at Hankow. Department desires to know what this share would be. You must understand that this Government has no funds for the purpose of chartering a ship as a place of refuge for Americans at Hankow for an indefinite time.

KELLOGG

893.00 Nanking/74: Telegram

The Consul General at Canton (Jenkins) to the Secretary of State

CANTON, April 12, 1927—2 p. m.

[Received April 13—10:21 a. m.]

Anti-Nanking incident demonstration scheduled for today postponed to the 16th. Situation continues tense. Government shows some tendency to restrict Communist activities but so far there has been no open rupture.

Strike at Canton Christian College still continues and institution will be closed indefinitely on the 14th. In spite of vigorous protests from the consulate general, local authorities have done little or nothing to relieve strike situation.

Practically all American women and children have left the district except those on Shameen. In the interior there are still about 50 missionaries and 100 in the vicinity of Canton nearly all of whom

are men. I shall endeavor to induce women and children to remain at Hongkong until there is some definite improvement in the political situation.

The Legation has been informed.

JENKINS

393.11/593 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, April 13, 1927—3 p. m.

[Received April 13—10:02 a. m.]

Charter referred to in my April 10, 2 p. m., terminated this morning in view of your April 11, 4 p. m. I am doing my utmost to prevent a repetition of the Nanking affair, and the plan adopted was to that end. Instead, I am now concentrating practically the whole American community at the consulate at night, having fitted up sleeping quarters for them by local assistance. Am incurring no expense except that which is absolutely necessary.

[LOCKHART]

393.1163/171 : Telegram

The Consul General at Shanghai (Gauss) to the Secretary of State

SHANGHAI, April 16, 1927—4 p. m.

[Received April 16—6:37 a. m.]

Certain missionaries of the Methodist Episcopal Church, South, including Dr. Nance, president of Soochow University, are contemplating returning to Soochow in open defiance of advice and objections of this consulate general. I urge the strongest negative representations to the home offices of these missionaries at Nashville, Tennessee, to require their missionaries to heed consular advice in the present emergency in China.

GAUSS

393.11/601A : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, April 16, 1927—6 p. m.

171. For your consideration and comment representative of Standard Oil Company of New York today left with Department telegram from their Hongkong office, dated April 14, reading in part as follows:

"All West River staff temporarily in Hongkong but expect Kongmoon and Wuchow men to return next week. In our opinion it is a serious mistake to create ill will by withdrawal of Americans from ports where conditions are peaceful because of serious situation at other ports. If one naval vessel is available at each port as at

present we believe this adequate to protect essential men who should remain with full approval of Legation and only to evacuate if condition at each individual port makes it necessary. This policy we believe will retain Chinese good will as long as possible and very likely at some ports throughout the crisis."

GREW

393.11/604: Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, April 17, 1927.

[Received April 18—11:10 a. m.]

Legation number 21, April 17, 3 p. m. There now remain at Hankow 73 Americans of whom about 33 are sleeping in the consulate living quarters at night and 38 on Standard Oil Company vessels and remainder near consulate. Two women remain, Miss Arndt, a missionary who is unable to persuade her father to leave, and Mrs. Prome, the editor of the *Peoples Tribune*, the Nationalist propaganda organ, who has absolved me from all responsibility for her safety. With precautions taken, the evacuation of the remaining Americans should be accomplished without difficulty in case of further emergency.

While the radical wing of the Kuomintang is thoroughly entrenched here, it is not unlikely that the raids on Communist headquarters in Shanghai and Canton will have their influence here and that some such attempt may be made at Hankow to suppress the Communists or at least to curb their activities. There is unquestionably a growing anti-Communist faction which at the moment lacks leadership and courage. This sentiment is the outgrowth of weeks of terrorism and oppression and is bound to assert itself if the present ruthless methods continue.

At Changsha within the last few days many Chinese, estimated from 30 to 40, having foreign business affiliations, have been wantonly killed by the Communists.

Legation informed.

LOCKHART

393.11/601: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 17, 1927—6 p. m.

[Received April 17—4:04 a. m.]

443. Legation's 273, March 28, 8 p. m. Americans who have left northern Honan south of Yellow River report evacuation of the area by American citizens complete except for two Catholic fathers who remain at Kaifeng.

MACMURRAY

393.11/605 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 18, 1927—3 p. m.

[Received 9:10 p. m.]

455. Your 171, April 16, 6 p. m.

1. With reference to the Legation's attitude toward the withdrawal of American citizens in the consular districts of Foochow, Amoy, Swatow and Canton, please refer to Legation's 254, March 25, 4 p. m., paragraph 3.

2. The consuls and naval forces at Chungking and Changsha have been withdrawn in accordance with authorization granted in the Department's 101 [102], March 26, 5 p. m.

3. With regard to Hankow, please refer to Legation's 321, April 2, 4 p. m. On April 12th Yangtze Patrol commander and consul general despatched joint telegram to commander in chief and Legation stating: "If we are to remain at Hankow and protect both lives and property, consider that a much stronger force will be required, minimum one light cruiser and two destroyers or equivalent." On April 14th commander in chief informed Patrol commander that one light cruiser and one destroyer would leave for Hankow on the 15th and second destroyer would start in about two days. In conformity with the Department's 157, April 14, 2 p. m.,²¹ the information contained in these naval telegrams was not repeated to Department. The Legation sees no reason at present to modify its position as above indicated and it would view with great concern any tendency on the part of American citizens to disperse to the interior and to smaller ports from places where they may be protected or quickly evacuated if necessary.

MACMURRAY

893.00/8729 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 20, 1927—7 p. m.

[Received April 20—11:10 a. m.]

461. 1. At a conference this morning with heads of representative American mission and educational institutions, the opinion was freely expressed by them that the steps taken with regard to the withdrawal of American citizens both from Nationalist territory and from North China had had a profound and sobering effect upon thoughtful Chinese, and that this action was bringing home to them a realization

²¹ Not printed.

of the fact that the failure of China to ensure the protection of foreign residents meant very definite consequences of a far-reaching character.

2. One representative stated that immediately after the Nanking affair his Chinese acquaintances had been generally inclined, from the Chinese press, to blame the powers for another act of wanton cruelty, but that now, having largely learned the truth from the reports of Chinese eyewitnesses and other authentic sources, they were taking a very different attitude and would, in all probability, tacitly acquiesce in such just measures as the powers might find it necessary to take, even if such measures included the blockade of the whole of Nationalist China. This proved also to be the opinion of the others present at the conference.

MACMURRAY

893.00/8783 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

U. S. S. "CINCINNATI" AT HANKOW, April 25, 1927.

[Received April 26—11 a. m.]

32 to the Legation April 25, noon. There is a noticeable improvement in the situation here. Posters have been widely distributed directing that foreigners be not interfered with. Demonstrations and parades have practically ceased. Officials and laborers as well are showing a much more reasonable attitude toward foreigners. The substantial increase in the naval forces here, the attitude of Chiang Kai-shek, President of the Hankow Government, the steady growth of unemployment and the almost complete paralysis of business by reason of the stringent silver embargo, have no doubt contributed to this change of feeling. I accompanied the group of leading American businessmen in a 2-hour conference with Eugene Ch'en Saturday afternoon at which time he was to be told pointedly and in emphatic terms the imperative necessity of taking immediate steps to relieve the situation. Being pressed for concrete information as to what his regime proposes to do in this direction he detailed measures adopted within the last few days and it is apparently these that are now easing a situation which could not possibly have continued longer than a few days.

Reliable information from Changchowfu where conditions have been even worse than at Hankow indicates a change for the better. The present improvement may be only temporary and merely a part of some political scheme of the Kuomintang but the general opinion is that the leaders have been driven to the adoption of remedial measures

or else run the risk of a complete collapse from pressure within the party or from outside political enemies.

Troop movements up the Peking-Hankow Railway continue.

Legation, Shanghai and Nanking informed.

LOCKHART

393.11/613 : Telegram

The Consul at Amoy (Putnam) to the Secretary of State

AMOY, April 25, 1927—8 p. m.

[Received April 25—3:15 p. m.]

All Americans have come in from the interior. Conditions throughout consular district quiet except for bandits in some sections.

PUTNAM

893.00/8787 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, April 26, 1927—3 p. m.

[Received April 27—6:08 a. m.]

Chief topic of conversation here is the changed attitude toward foreigners as I reported in telegram April 25th, noon. According to unmistakable evidence Borodin²² has brought about the conciliatory atmosphere now so noticeable. He has been responsible for practically all of the major policies of the Nationalist Government. Within the last few days he has approached several well-known Americans and volunteered information which convinced them that the Government has been persuaded by him to adopt a new policy for the purpose of putting an end to present economic strangulation. Borodin has particularly been concerned lest foreign powers should become so angry over loss of trade and prestige as to intervene and suppress the revolution completely. Government officials are exclusively devoting their time to a desperate effort to regain popular support among both Chinese and foreigners. The realization that an acute shortage of rice exists is a new factor. There have already been small riots at rice shops.

To make way for northward troop movements the passenger traffic on the railroad from Hankow to Peking has today been cancelled.

Legation informed.

LOCKHART

²² Michael Borodin, Russian adviser to the Chinese Nationalist Government.

893.00/8790 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 28, 1927—9 a. m.

[Received April 28—5:55 a. m.]

493. Following telegram sent American consul general at Hankow:

"Number 31, April 28, 9 a. m. Your 32, April 25, noon.²³

1. I am glad to learn that there is a noticeable improvement in the situation at Hankow. I entirely agree with your estimate of the probable causes thereof as outlined in your fourth sentence and heartily approve of your attitude in bringing the imperative necessities of the situation to Eugene Ch'en's attention whenever the opportunity is afforded. The resolute, just, and restrained manner in which you are successfully carrying out your difficult duties at Hankow is deserving of the highest commendation."

MACMURRAY

393.1163/171 : Telegram

The Secretary of State to the Consul General at Shanghai (Gauss)

WASHINGTON, April 29, 1927—5 p. m.

Your April 16, 4 p. m. Department informed Mission has telegraphed missionaries to conform with your recommendations.

KELLOGG

393.11/635 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, May 4, 1927—6 p. m.

207. Following from L. C. Gillespie and Sons, New York:

"May 3. We understand from the cable just received that certain American tonnage is available for bringing merchandise from Wanhhsien and Ichang to Shanghai. Carriers request convoys but apparently are willing to proceed without convoys if necessary. United States River Admiral has advised the United States Commander-in-Chief against permitting any American steamer to proceed above Hankow. We understand that the Navy is already assisting the Standard Oil Company to remove their stocks above Hankow under convoy. We still have large stocks of wood oil at Wanhhsien and Ichang and therefore respectfully request that you authorize permission be granted American steamers to proceed up river above Hankow to bring down such stocks under convoy and also to permit of business being carried on in the future in this manner while the present conditions exist. Would appreciate a reply so that we may advise our branch Hankow."

Repeat to Admiral Williams for his consideration.

KELLOGG

²³ See telegram of April 25 from the consul general to the Secretary, p. 293.

893.00/8862: Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, May 6, 1927—3 p. m.

[Received May 7—9:20 a. m.]

Practically all Japanese now have been evacuated from points above Hankow on the river, and French are doing likewise. With the exception of approximately 16 American missionaries at Chengtu but few foreigners are left above Hankow. There are 61 Americans here.

Fairly authentic reports of Northern victories between Chumtien and Sinyangchow. No visible signs of conflict between radical faction here and Chiang Kai-shek. Estimated that about 30,000 troops have been sent up railway since Northern drive began, only few troops remaining here which is interpreted in some quarters that faction here does not fear attack from Chiang Kai-shek. The Hankow Government, which apparently is in serious financial difficulties, seems to be staking everything on the outcome of the Northern expedition. Business remains almost completely disrupted because of the silver embargo. Legation informed.

LOCKHART

393.11/636: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 9, 1927—4 p. m.

[Received May 9—11:28 a. m.]

532. Your 207, May 4, 6 p. m. Following from commander in chief:

"0007. May 9, 4 p. m. 1906-1200. Until consulates are re-opened above Hankow, I do not approve of any attempt to carry on trade above that port. Standard Oil Company's steamer *Yankee Arrow* was escorted to and from Chenling to remove valuable stock of gasoline. No further operations above Hankow contemplated or recommended. In this respect the following despatch from commander North Chinese Patrol is quoted for your information: '0102. Your 0101-1217. Am distinctly opposed to this proposal. Speediest method of bringing Chinese to their senses is to continue cessation of shipping now existent. I do not believe this period of quiet will last long. I have no faith in assurances given by Wanh sien and Chungkiang authorities. Boycott and further trouble would almost certainly follow any attempt of this nature. French and Japanese are now completing their evacuation from Szechuan and Ichang. 1200.' 1030."

I concur in the above recommendation.

MACMURRAY

393.1163 Am 3/24 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 9, 1927—5 p. m.

[Received May 9—7:35 a. m.]

533. 1. Following from Vincent,²⁴ Hankow:

"May 7, 3 p. m. American Catholic missions at Shenchow and other cities in western Hunan looted and burned by the Chinese. Priests forced to flee; present whereabouts unknown.²⁵ American property at Changsha is safe but the situation there may be chaotic."

2. I have replied as follows:

"May 9, 3 p. m. For Vincent: Your May 7, 3 p. m. I assume all practicable steps being taken with local authorities for protection of the American lives and property involved."

MACMURRAY

393.11/638a : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, May 11, 1927—2 p. m.

216. The Nationalist News Agency (Chinese) publishes telegram dated Hankow May 3, stating Asiatic Petroleum Company operating Changsha under German management until its own representative now returning to Changsha arrives.

American firms restive under trade stoppage and Department is interested in any attempts of other nationalities to continue or reopen commerce where Americans have evacuated.

KELLOGG

393.11/635 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, May 14, 1927—3 p. m.

220. Your 532, May 9, 4 p. m., communicated to Gillespie and Sons who now reply requesting "same privilege accorded Standard Oil Company, namely, to evacuate our stocks at Ichang and Wanh sien under escort." They state stocks in question valued at \$150,000. Repeat to Admiral Williams for his consideration.

KELLOGG

²⁴ John C. Vincent, vice consul, withdrawn from Changsha.

²⁵ A telegram from the consul general at Hankow, June 9, 1927, reported that some of the priests from Hunan had arrived safely at Kweiyang, Kweichow, and that others were proceeding there. (File No. 393.1163 Am 3/33.)

393.11/641: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 15, 1927—2 p. m.

[Received May 16—6:02 a. m.]

557. Following telegram has been received from American consul at Yunnanfu:

"May 11, 11 a. m.

1. Referring to telegram of May 7, 10 a. m. There are still 46 Americans in Yunnan: 16 men, 18 women, 12 children; as well as 4 men, 5 women at Batang in Szechwan. All were advised to evacuate by British consul here in accordance with your instruction of April 11th through the British Minister but the majority are not leaving. In view of the fact that conditions here have become so much worse it is my opinion that all Americans, especially women and children in the interior, should leave and believe that further instructions from the Legation to me in the premises would assist to that end.

2. Since the overthrow of Governor Tang Chi-yao in February and the alignment of Yunnan with the Nationalist cause there has been a disintegration of central authority especially recently with increasing antiforeign propaganda and banditry. Two foreigners have been killed and five captured within the past three weeks. The number of bandits is reported to be about 15,000 largely armed ex-soldiers constituting a serious menace. On May 9th there was an antiforeign demonstration of students during which shopkeepers handling foreign goods were threatened and antiforeign speeches made.

3. British consul is packing archives preparatory to leaving should conditions become worse while the French consul and most remaining foreigners have either sent their household and personal effects to Tonkin or have packed them."

MACMURRAY

393.11/642: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 16, 1927—5 p. m.

[Received May 16—8:53 a. m.]

560. My telegram 557, May 15, 2 p. m. I am replying to Yunnanfu's May 11, 11 a. m. as follows:

"May 16, 5 p. m. Your May 11, 11 a. m. 1. Legation approves your recommendations with regard to safeguarding American citizens to Yunnanfu; and you are instructed to advise all Americans in your district to withdraw either to Yunnanfu or from the province entirely as circumstances may in your opinion demand. In an emergency, you are authorized to close the consulate, remove the archives, and proceed to Hong Kong pending further instructions. On account of the remoteness of your post from Peking, Legation is not in a position to instruct you promptly in matters affecting the safety of our

nationals and yourself and it therefore gives you complete discretion and relies upon you to take such measures as you may consider necessary."

MACMURRAY

393.11/644 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 17, 1927—noon.

[Received May 17—5:34 a. m.]

564. Your 116 [216], May 11, 2 p. m. Following from American consul at Hankow:

"May 16, 10 a. m. Your 41, May 13, 4 p. m. German whom Asiatic Petroleum Company sent to Changsha to arrange for disposing of installation stocks failed in his mission. Asiatic Petroleum Company has no intention of reopening at Changsha so long as present conditions prevail; on the contrary it desires to remove stocks now at Changsha to Hankow. So far as I am able to ascertain there will be no revival of trade at Changsha until conditions there and here are improved. The money situation makes resumption of normal trade practically impossible."

MACMURRAY

393.11/642 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, May 18, 1927—4 p. m.

224. Your 560, May 16, 5 p. m. Your telegram May 16, 5 p. m. to Yunnanfu approved.²⁶

KELLOGG

393.11/648 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, May 18, 1927—6 p. m.

226. 1. Standard Oil Company has telegraphed Department as follows:

"Our Shanghai office has just cabled us of the continued peaceful presence of French Consuls and gunboats at Chungking, Ichang and Changsha with the French merchants doing business without trouble or interruption, with the withdrawal of United States Consuls and gunboats together with our American staff from these points, forcing the closing of our installations. Our Chinese agents will shortly be without stocks to continue business and with no means of remitting monies owed to us. As our Chinese friends are anxious for a return to normal resumption of trade, our Shanghai office strongly recommends resumption of business at these points. Our American staff are ready to resume their posts beyond Hankow and we venture an

²⁶ See telegram No. 560, May 16, from the Minister in China, p. 298.

opinion that a return to commercial friendly intercourse with the Chinese, in the areas covered from the points mentioned, can be carried out without trouble or irritation if the United States will return the gunboats to their usual stations for the moral effect their presence would bring. Such action, we believe, would in no way controvert any of the reasons for their presence as stated by the President in his speech before the United Press Association on April 25th.²⁷ Under these circumstances, may we not request your favorable consideration of the points raised, with the view that the Navy on the Yangtze cooperate with the commercial interests in China to the extent of returning the gunboats to their customary stations on the upper Yangtze River. Standard Oil Company of New York, H. E. Cole, Vice President."

Repeat to Admiral Williams and ask whether he has any comments to add to messages transmitted in your 532, May 9, 4 p. m.

KELLOGG

393.11/651: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 23, 1927—3 p. m.

[Received May 23—9:10 a. m.]

580. Your 220, May 14, 3 p. m. Commander in chief has replied that it is physically impracticable to remove Wanh sien stock under naval protection during the summer season and that commander, North China Patrol, does not consider that existing military situation makes it advisable to evacuate Ichang stock. Patrol commander states that he has made no plans or promises to the Standard Oil Company to evacuate their river stock above Chenglin and that it is not his intention to effect such further evacuation and that he has so informed that company. If at a later date the situation permits the evacuation of Ichang stock, Gillespie and Sons Company will be accorded same assistance offered to the Standard Oil Company.

MACMURRAY

393.11/652: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 25, 1927—4 p. m.

[Received May 25—11:45 a. m.]

588. Your 226, May 18, 6 p. m. was referred to the commander in chief who has replied as follows:

"0024. Your 1920-1300 was referred to commander Yangtze Patrol, for comment and he replied in part as follows:

"Your 0023-1020 and American Minister's 1920-1300. The Shanghai office of the Standard Oil Company has not stated the case correctly to the New York

²⁷ Vol. III, p. 209.

office. At Changsha there is no French consul nor French businessman. At Chungking one consul, two businessmen.

One French gunboat at Chungking and two at Ichang to complete evacuation of nationals. Consul held up by missionaries reluctant to evacuate. Consider resumption of business inadvisable, unwise, and premature. Areas concerned are not accessible to gunboats, center at Changsha and only possible place accessible. Military and political situation precludes resumption.'

I regard any attempt on the part of Standard Oil Company to resume business above Hankow as inadvisable at the present time. 1600."

American consul general at Hankow has also commented as follows:

"May 23, noon. Your unnumbered May 21, 6 p. m. French business interests in Changsha, Ichang and Chungking, according to the French consul general, constitute one man at Ichang and two at Chungking, the three being connected with an exporting firm and shipping company, the latter more Chinese than French. French business interests at the three ports are practically nil and the gunboats which were recently sent up river were principally for the purpose of evacuating large communities of French Catholic missionaries, many of whom, however, are declining to leave although advised to do so by consular authorities here.

I do not consider the up-river situation to have cleared sufficiently to justify the immediate return of the Standard Oil Company to Ichang and Changsha to reopen business, because, if the company resumes under the protection of gunboats, similar authority to return must of course be granted to Yangtze Rapids Company and other American concerns and to missionaries.

A general reopening of the upper river at this time when the war lords are contesting for control is premature. Military events of the past 10 days at Ichang and Shasi support this view. A drive against Yang Sen ²⁸ by Nationalist troops is even now impending and the necessity of an early evacuation of the Standard Oil Company stock under naval protection is now under consideration by naval authorities and is being discussed with company officials.

No American company in Hankow including the Standard Oil Company is selling goods except for foreign bank notes and big money and these companies are, accordingly, doing little business. Similar conditions as regards money and exchange doubtless prevail at Ichang and Changsha and it is not understood how the company could successfully transact business there under such circumstances. Admiral Hough concurs in the above. I am not prepared to comment on the physical phases of rendering naval protection but Admiral Hough states that gunboats cannot go above Ichang in the summer; that he could render no protection to Yangtze Rapids ships above Ichang and to navigate these vessels 'without escort would surely bring about their being commandeered by Chinese and would involve a necessary use of force which at the present time it is so desirable to avoid until the situation at present existing is cleared up by an expression of our Government's policy.' Water stores and

²⁸ A nominal adherent of Wu Pei-fu.

fuel problems are serious considerations for permanent maintenance of naval vessels both at Changsha and Ichang. Consul Adams²⁹ is arriving in Seattle today and if this matter is referred to Department it is suggested that he be consulted."

I concur fully in the views of the naval and consular authorities as above outlined.

MACMURRAY

393.11/654: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 27, 1927—noon.

[Received May 27—6:05 a. m.]

593. Legation's 580, May 23, 3 p. m.; and 588, May 25, 4 p. m. Lockhart reports that, Standard Oil Company having approved, their vessels *Mei Foo* and *Mei Chuen* left for Ichang morning 26th escorted by U. S. S. *Pigeon* to evacuate oil stocks.

MACMURRAY

893.00/9188

The Minister in China (MacMurray) to the Secretary of State

No. 1071

PEKING, June 3, 1927.

[Received July 11.]

SIR: With reference to my telegram No. 277, of March 29th, 12 noon,³⁰ and to subsequent communications concerning the protection of foreigners I have the honor to enclose herewith copies of memoranda from the British, French, Italian and Japanese Legations³¹ showing the measures taken for the evacuation of the nationals of those countries from various parts of China.

I beg leave also to enclose a copy of a memorandum regarding the withdrawal of American citizens which I transmitted, to the missions referred to, on May 24th.

I have [etc.]

J. V. A. MACMURRAY

[Enclosure]

*Memorandum Concerning the Withdrawal of American Citizens*³²

WITH REFERENCE TO NATIONALIST TERRITORY

Prior to the Nanking incident (March 24, 1927), the American Legation has advised the withdrawal of American citizens from the Chung-

²⁹ Walter A. Adams, consul, withdrawn from Chungking.

³⁰ *Ante*, p. 94.

³¹ Not printed.

³² Transmitted to the British, French, Italian, and Japanese Legations in China on May 24, 1927.

king and Changsha consular districts. After March 24, the Legation advised the withdrawal of all Americans from Nationalist territory (excepting Shanghai foreign settlements). However, the Legation sanctioned those persons in seacoast ports remaining there, if concentrated in places from which they might be readily evacuated. The Legation also approved essential men remaining at Hankow.

WITH REFERENCE TO NORTHERN TERRITORY

Generally speaking, the Legation has advised the withdrawal of all Americans from the interior to seacoast ports. In early April, the Legation expressed approval of the withdrawal from Peking of women with children and non-essential women; but this measure is no longer considered necessary. No advice to withdraw has been given with regard to Manchuria.

COMPLIANCE WITH LEGATION'S ADVICE

In Nationalist territory, the above advice has been very fully observed. There remain a few Americans in Chengtu, Batang, and Yachow, Szechuan. There are also a few persons remaining in Western Hunan and at some other points in the South.

In Northern territory, the advice given was followed at the time in a very satisfactory manner. There is, however, at present a slight tendency to drift back to places in the interior without reference to the advice of the American Government authorities. American missionaries in Kansu and Shensi Provinces have not yet come out, but they are all believed to be on their way.

Consulates closed: 4

Chungking, Changsha, Nanking, Kalgan.

Officers from the Chungking and Changsha Consulates are stationed temporarily at Hankow. The Consul at Nanking is remaining on board a war vessel at that port.

Ports totally evacuated:

Chungking, Wanh sien, Ichang, Shasi, Yochow, Changsha, Kiukiang Wuhu, Nanking, Kalgan.

Ports from which evacuation has largely taken place:

Chengtu, Hankow, Foochow, Hangchow, Ningpo, Foochow [*sic*], Tsinan, and smaller ports in Kwangtung and Kwangsi Provinces.

393.11/673 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 16, 1927—4 p. m.

[Received June 16—8:55 a. m.]

646. Legation's 557, May 15, 2 p. m., and 560, May 16, 5 p. m.

1. Following from American consul at Yunnanfu through American consul, Hong Kong:

"June 18 [*sic*], 4 p. m. Following from Jacobs, June 14, 3 p. m.: This morning Hu Jo-yu after 3 hours' fighting in the city assumed charge, driving out the forces of Lung Yun. I fear there may be further fighting and disorder. Hu promises protection to foreigners but whether he does or not we cannot leave, since the railway has been cut."

2. In the circumstances I do not believe that we are justified in keeping open the consulate at the present time and I request your authority to instruct Jacobs to advise all Americans in his district that conditions are unsafe; that they should withdraw and that, if they remain in Yunnan, they do so at their own risk. He should then close the consulate, remove the archives, and proceed to Hong Kong as soon as he is able to leave Yunnanfu.

MACMURRAY

393.11/673 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, June 16, 1927—6 p. m.

257. Your 646, June 16, 4 p. m. You are authorized to instruct Jacobs at Yunnanfu as requested in paragraph 2 of your telegram. See Department's 224, May 18, 4 p. m.

KELLOGG

393.11/674 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 18, 1927—1 p. m.

[Received June 18—7:12 a. m.]

656. Your 257, June 16, 6 p. m. I have instructed Jacobs June 17, 4 p. m., in accordance with paragraph No. 2 of the Legation's 646, June 16, 4 p. m.

MACMURRAY

893.00/9137 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 25, 1927—8 p. m.

[Received June 25—11:02 a. m.]

679. 1. Following to American consul general at Hankow:

"June 21, 3 p. m. Nationalist news agency, Hankow, June 18th, reports announcements from official quarters state that British women and children will be allowed to return to Hankow and that Japanese authorities are making similar announcements. British and Japanese Legations admit substantial accuracy of this report. Can you give any further information?"

2. To which Lockhart replied:

"June 23, 11 a. m. Your 61, June 21, 3 p. m., received today. British women and children are now allowed to return to Hankow provided they reside in the foreign settlements or special areas and be prepared to evacuate again in case of necessity. Each case is decided separately and independently on application to British consular authorities. Japanese have made no public announcement on the subject but Japanese consul general has informed his nationals that women and children are free to return. A few British, American, and Japanese women and children have already returned.

In reply to telegram from Cunningham³³ yesterday inquiring as to the views of this office concerning the return of women and children to Hankow I have made the following reply:

'While not recommending that women and children return to Hankow I am interposing no objection to their so doing if they wish to assume the risk. I have no means of compelling them to reside in the concessions or foreign areas but would expect them as well as men to do so and they would also be expected to evacuate from the port again if such exigencies of the situation demanded it. I personally do not consider that the situation is sufficiently settled to warrant a general return of women and children, and a return to places in the interior either by women and children or men is out of the question for the present.

No objection to men returning either for a short visit or for residence but could not sanction residing in Wuchang.'

In case the above telegram does not meet with your approval, please let me know at once. It seems to me much caution is required in order to prevent a general influx of Americans through Hankow into interior points. As regards Hankow itself there can be little danger from possible military operations but the situation is still uncertain because of enormous numbers of unemployed and a very acute food shortage and tremendous rise in cost of living. In view of action taken by British and Japanese here an absolute bar against American women and children returning could not well be maintained."

3. I am telegraphing Hankow as follows:

"June 25, 4 p. m. Your June 23, 11 a. m.

1. I thoroughly approve your reply to Cunningham's inquiry. I appreciate difficulties with which you are faced by reason of insistent

³³ Edwin S. Cunningham, consul general at Shanghai.

demands of businessmen and missionaries to return to their posts as soon as possible and especially by reason of the fact that the British and Japanese authorities are apparently relaxing restrictive measures with regard to the return of their nationals.

2. The policy of the American Government has however been to evacuate our nationals from the interior and from smaller ports to the few larger places where adequate protection can be provided. As yet I see no evidence that conditions have improved sufficiently to justify any substantial modification of this policy. I believe that while seeking to avoid being unduly arbitrary or unresponsive to actual changes as they occur we should do utmost to discourage the premature return of our nationals to those places where they cannot be assured adequate protection."

MACMURRAY

893.00/9138 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 27, 1927—5 p. m.

[Received June 27—7:43 a. m.]

680. 1. Following from American consul at Hankow:

"101. June 25, 10 a. m. Steamer *Chilai* of the Yangtze Rapids Company bound up was fired upon by rifle fire near Ichang June 22nd and one Chinese passenger killed and one seriously wounded. Have lodged protest with Chinese authorities."

2. I am informed that the Yangtze Rapids Company is attempting to resume navigation between Ichang and Chungking in spite of my strong advice to the contrary and statement that resumption of operations on the Upper Yangtze is entirely at owner's risk.

MACMURRAY

893.00/9145 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 27, 1927—7 p. m.

[Received June 27—10:15 a. m.]

681. Legation's 688, June 18, 7 p. m. [656, June 18, 1 p. m. 9]

1. Following from American consul at Yunnanfu:

"June 23, 2 p. m. Your June 17, 4 a. m. The recent fighting in Yunnanfu results from personal jealousies of two Chinese generals and has taken no antiforeign turn although naturally dangerous and conducive to disorder. Since the British, French and Japanese consuls are not leaving for the present and since Standard Oil Company representative objects to our closing I believe it would be in the interest of our prestige to remain open and to continue to be guided by the Legation's May 16, 5 p. m.³⁴ Americans in the district have been twice warned that they remain at their own risk."

³⁴ See telegram No. 560, May 16, from the Minister in China, p. 298.

2. I am replying as follows:

"June 27, 6 p. m. Your June 23, 2 p. m. Your June 14, 3 p. m.,³⁵ gave me the decided impression, as it could not fail to do, that you considered it an unreasonable risk both for yourself and other American citizens to remain longer in Yunnanfu. If such is not the case, as would now appear to be your opinion (your June 23, 2. p. m.) you may keep the consulate open and continue to be guided by the Legation's May 16, 5 p. m."

MACMURRAY

393.11/688: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 21, 1927—1 p. m.

[Received July 21—6:16 a. m.]

749. Davis reports July 20, 3 p. m., that in spite of recent proclamations by Chiang and Wu against occupation of foreign buildings, virtually all such at Nanking are now occupied. Standard Oil Co., residences, and Methodist Girls' School have just been occupied by soldiers, and in the latter all furniture is being burned for fuel; Warren Stuart's residence is being used as stable while guard at American consulate is stealing the remaining books and using broken furniture for fuel. In north Kiangsu, at Haichow, Sutsien and several other cities Presbyterian mission buildings which had been left unmolested by Chiang Chung-cheng's troops have recently been seized and thoroughly looted by Nationalists.

MACMURRAY

893.00/9254

The British Ambassador (Howard) to the Secretary of State

No. 447

MANCHESTER, MASS., July 25, 1927.

[Received July 27.]

SIR: I have the honour to inform you that His Majesty's Consul at Chinkiang, in a report on the measures taken for the protection and evacuation of foreigners at that place, lay stress on the extreme co-operation that existed throughout between the United States Navy and the British Navy and himself. Mr. Wyatt Smith states that every assistance the United States Ship *Paul Jones* could in any way give was freely offered and given and British refugees were entertained and even evacuated on United States Ships.

I have the honour, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, to express to the Government of the United States of America the satisfaction with which he has received this report of the assistance rendered on this occasion by the United States Navy. I beg leave further to request that the thanks

³⁵ See telegram No. 646, June 16, from the Minister in China, p. 304.

of His Majesty's Government may be conveyed to the Commander and Officers of the United States Ship *Paul Jones*.

I have [etc.]

ESME HOWARD

393.1163/184 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, August 15, 1927—4 p. m.

[Received August 15—10:31 a. m.]

808. Legation's 679, June 25, 8 p. m.

1. Following from American consul at Hankow:

"August 13, noon. Information is at hand indicating that some missionaries now in the United States are making tentative plans to return to this field in the early autumn. I strongly recommend they defer returning to posts at which they cannot be protected or from which they cannot be safely and quickly evacuated. The risks involved are much the same under present conditions [apparent omission] warranted and until the situation becomes more settled missionaries should postpone any attempt to resume their work at such posts. Conferences between representatives of the Department and missionary organizations in the United States might be helpful in discouraging any movements back to interior points at this time. If it has not already been done, the home offices of missionary organizations should also instruct their representatives at Shanghai and Hankow in the sense of the above so far as this district is concerned. Unless some steps are taken along this line, a substantial movement back to interior posts in this region will probably begin in September. Please repeat to Department if you concur."

2. I fully concur in the views expressed by Lockhart and strongly recommend that the Department approach [apparent omission] and heads of mission organizations and of those of the principal business organizations as employ Americans in the interior with a view to averting a general and premature return of Americans to such places. This object might best be attained it would seem if the China representative of those organizations were instructed to follow the advice of the American diplomatic and consular officers on this subject.

3. In reply to an inquiry on the same question the Legation telegraphed the American consul at Canton, August 12, 3 p. m., in part as follows:

"The Legation perceives no good ground for any reversal on our part of the policy which has hitherto been followed of withdrawing American citizens from the interior and concentrating them at places where they may be protected or readily evacuated in an emergency. You should continue to discourage all American citizens from returning to such places as do not fall within the two categories above named and make entirely clear to any individuals who did decline to heed your advice that such action is taken entirely at their own risk and responsibility."

MAYER

393.11/693 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, August 17, 1927—4 p. m.

[Received August 17—7:30 a. m.]

812. In support of the recommendations made in the Legation's 808, August 15, 4 p. m., please refer to Hankow's August 16, 4 p. m. to the Department,³⁶ paragraph 2, with reference to the attitude of American business organizations. Lockhart has reported, in reply to a telegram from [apparent omission] that so far as he has been able to discover, no American business enterprises, with the exception of the Yangtze Rapid[s] Company, are endeavoring to resume operations at interior points. The Standard Oil Company has one man at Changsha collecting outstandings and selling off stocks now on hand but he will shortly return to Hankow. An attempt may later be made to do the same thing at Chungking but there is no pressure being brought at present on the Hankow consulate general to permanently resume business of service at interior places.

MAYER

393.1163/184 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, August 17, 1927—3 p. m.

317. Your 808, August 15, 4:00 p. m. Department is informing Secretary, International Missionary Council, also Secretary General Conference Seventh Day Adventist Mission and Washington representative of Roman Catholic Missions in the sense of your telegram. It considers that, in general, business firms employing Americans in the interior can more advantageously be reached through the Legation and Consulates in China either directly or through American Chambers of Commerce than by channels available to the Department. If, however, there are firms in the United States with which you believe the Department should communicate directly on this subject, it will do so if you will send their names and addresses.

KELLOGG

893.00/9286

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, August 19, 1927.

EXCELLENCY: I have the honor to inform you that a report has been received from the American Legation at Peking³⁷ concerning the

³⁶ Not found in Department files.³⁷ Not printed.

assistance rendered by the Acting British Consul General at Yunnanfu in the evacuation of American residents of Yunnan Province during April of this year, at a time when the American Consul at Yunnanfu was absent in Shanghai.

It gives me pleasure to express the appreciation of my Government for the valuable service rendered to American citizens by Mr. G. A. Combe, the Acting British Consul General at Yunnanfu, and I have the honor to request that you will be so good as to convey this expression of appreciation to your Government.

Accept [etc.]

FRANK B. KELLOGG

393.1163/189 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, August 24, 1927—11 a. m.

[Received August 24—4:30 a. m.]

830. Department's 322, August 20, 2 p. m.³⁸ Following from Lockhart:

"August 23, noon. No objection to return of women mission workers to Hankow in limited numbers provided they reside in concession areas. Residence outside of these areas and in Wuchang is not advisable as protection in that event could not be afforded nor could evacuation in case of an emergency be quickly and safely effected. Some of Bishop Root's workers would probably be employed at Wuchang where most of his activities are centered. While conditions have improved at Wuchang they are by no means settled and daily visits of women missionaries there at present are not advisable."

I concur in the foregoing.

MAYER

893.00/9567 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, October 31, 1927—10 p. m.

[Received November 11—1:40 p. m.]

38. Following sent to the Legation:

"October 31, 10 p. m. I arrived Ichang, October 22nd, and left 25th arriving Changsha 28th, and here today.

Conditions at Ichang and along upper river extremely unsettled. Organized banditry is rife, practically all merchant ships departing for Chungking being robbed or looted from 1 to 4 times each trip. Bandits often board ships at Ichang robbing officers and passengers en route, sometimes conducting looting operations ashore at night when ship anchored. Robbers have close liaison with bandits ashore to whom they frequently send signals; there is no apparent effort being made to suppress activities. No merchant vessel of any nationality

³⁸ Not printed.

escapes robbery, looting or commandeering en route unless escorted by a naval vessel. The bandits collect from the ship's officers or the company agents at Ichang from six hundred to four thousand dollars each round trip but the sums usually collected range from two thousand to three thousand dollars. Several bandits' stations along river and there is promiscuous firing on foreign merchant ships from the river banks, in some cases by machine guns. Soldiers on board a commandeered French ship fired on the *Iping* of the Yangtze Rapid[s] Company on the 23rd, just above Ichang. Rather than run the gauntlet of rifle fire and banditry several captains of long experience on the upper river have resigned their jobs in spite of the extra month's pay as bonus for each trip. There have been two recent cases of holdups of foreigners by bandits in the harbor at Ichang and the five foreigners living ashore there dare not venture out at night.

The Chungking manager of the Standard Oil Company abandoned on his own volition any attempt to proceed to Chungking. It was either pay your way through or shoot your way through and being opposed in principle to such a course he decided not to make the attempt.

I spent several hours ashore each day at Ichang and conferred at length with the civil and military officials but I was unable to discover one hopeful sign of any improvement in the situation in the near future notwithstanding assurances that bandits, savagery, and lawlessness along the upper river would soon be suppressed. The Ichang authorities appear to consider themselves independent of both the Hankow and Nanking regimes as well as of the Szechuan military of whom they entertain great fear. There is a growing feeling that Yang Sen will shortly attempt to recapture Ichang and both there and at Shasi I found an atmosphere of tenseness and a fear of military invasion.

The head of the opium tax bureau at Ichang informed me that slightly over five hundred thousand dollars was collected from opium taxes in September. There is reason to believe that the present well-organized system of banditry and near piracy is associated with a scheme to collect revenues to support the military. There are other important phases of the situation which I hope to subsequently discuss with you.

My visit to Ichang has convinced me of the futility of attempting to resume business and missionary activities in Szechuan at this time and even with naval protection, which is not now available, I [doubt?] if the risk involved would warrant the attempt which at most would be under such serious handicaps that but little could actually be accomplished for the time being. I am further convinced that conditions at Ichang are such that the establishment of a consulate or the stationing of a vice consul there under present conditions is not warranted. I had hoped that such an agent might be found to be feasible but a careful survey of the place and a study of existing conditions there persuade me that no substantial advantage would accrue. I strongly oppose such course unless the officer can function and carry on his business on a naval vessel and I consider this an ill-advised policy as a permanent arrangement.

It is difficult to overestimate the present unsettled state of affairs on this river at and above Ichang and with the possible exception of Chungking conditions are worse than they have been for about a month.

On the way down, 9 steamers and about 30 junks under the American flag filled with soldiers were passed near Kienli proceeding up river.

From Chianglingki [*Chenglingki?*] zone, on account of low water, trip was made in motor launch. Conditions along the Siang River and Tungting lake are quiet, as well as at Changsha, as business is reviving and good order is being maintained. I found no evidence of antiforeign feeling in going about the city although it was thoroughly posted [with?] propaganda circulars. Silver is plentiful and the few foreign businessmen there, 2 being Americans, report a revival of trade. There are 3 American missionaries there who are carrying on evangelical but no educational work.

The present quiet conditions at Changsha may be adversely affected by developments in the quarrels between the Hankow and Nanking factions but in case no untoward incident occurs in the meantime I would consider it advantageous to send an unmarried officer to Changsha in about thirty days to reopen. There would seem to be no objection to business concerns and missionary organizations also sending a few men there to look after their affairs. It would be inexpedient for women to return as the [facilities?] for evacuation would be extremely meagre and uncertain in case of an emergency at this time during the low-water stage from November to April. If Yale in China is to continue as an American body corporate it would seem to be particularly advisable that steps be taken to resume participation in its affairs in the near future. Until high water returns or until the major factional disturbances diminished, a general return of Americans to Changsha however would not seem to be advisable; but skeleton organizations of both business concerns and missionary societies would appear to be in order if those may understand the only assistance which could be rendered at present in case of trouble will be through the Chinese authorities and that neither police regulations or economic conditions can be said to be entirely settled and that obstacles and inconveniences may be expected. Undeniably reservations [*sic*] Changsha offers a field of endeavor from which interested Americans would do well not to detach themselves for too long a period."

LOCKHART

393.11/714

The Secretary of State to the Chargé in China (Mayer)

No. 684

WASHINGTON, November 16, 1927.

SIR: The Department has received a despatch (No. 1133 of October 11, 1927) from the Consul General at Tientsin, enclosing copies of his despatch to the Legation of October 8 (or 11), 1927,³⁹ respecting the necessity of advising the withdrawal of Americans from certain points in Shansi and southern Chihli Provinces. The Consul General explains that he has uniformly taken the position that Americans should not return to interior points and those who have gone back did so without his approval.

³⁹ Neither despatch nor enclosure is printed.

In his despatch to the Department the Consul General expresses the opinion that the issuance of a travel pass (or travel certificate) for use in the interior is tantamount to consenting to the return of the bearer to the interior, in spite of general warnings to the contrary, but adds that he has issued travel certificates in a few cases to American men desirous of going back to their stations for brief visits to arrange mission affairs or ship out furniture and belongings.

Under the conditions now existing in China the Department is not disposed to approve of the issuance of travel certificates for use in the interior of the country except in cases of the most pressing need and where no undue risks are to be incurred. Travel certificates should not be given to individuals likely to remain indefinitely in regions from which Americans generally have been advised to withdraw.

In connection with paragraph 172 of the Consular Regulations it may be explained that, while the validity of travel certificates should not exceed one year, these documents may be limited in each case to the time actually necessary to accomplish the intended journey. Upon the delivery of a travel certificate the consular officer should take up the applicant's passport (or certificate of registration) pending the surrender and cancellation of the travel certificate.

If it has not already done so, the Legation is requested to issue a circular instruction to consular officers in China cautioning them not to issue travel certificates to Americans wishing to return to the interior except under the conditions outlined in this instruction.

I am [etc.]

For the Secretary of State:

NELSON TRUSLER JOHNSON

893.00/9599 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, November 19, 1927—5 p. m.

[Received November 19—1:45 p. m.]

1013. Hankow consulate general's October 30 [31], 10 p. m. to the Department.

1. A series of conferences held with Lockhart, with naval attaché⁴⁰ and Davis⁴¹ present, to explore possibilities of reopening consulates at Changsha and Chungking and/or establishment of consular representation at Ichang, have resulted in unanimous concurrence in Lockhart's recommendations. It was further brought out that the return

⁴⁰ Capt. George T. Pettengill.

⁴¹ John K. Davis, consul at Nanking.

of consular officers would unquestionably have a tendency to cause Americans to return prematurely to points which are still dangerous often involving hazardous journeys on bandit-infested rivers. Mr. Hopkins, the head manager for the Standard Oil in China, recently told Lockhart at Shanghai that his company had abandoned all idea for the present of a resumption of activities in the region under discussion, because of conditions now obtaining there. Accordingly it is recommended that thought of consular representation at Chungking and Ichang be abandoned for the present and that such representation which, in my opinion, should first be intermittent in character under Lockhart's authority and discretion be reestablished at Changsha at such time after Lockhart's return to Hankow as he may deem advisable in light of future developments.

2. Meanwhile Lockhart specifically, and the Legation in general, will keep closely in mind the matter of resumption of consular representation on the upper river to the end that it may be recommended to the Department at the earliest moment expedient.

3. As regards the reestablishment of British representation at Chungking it is ascertained that this is regarded largely as an experiment concerning the success of which the British authorities are not at all sanguine, notwithstanding the presence of three British gunboats at and above Ichang, protection and assistance not presently available to us.

MAYER

393.11/738

The American Minister in China (MacMurray) to the British Minister in China (Lampson) ⁴²

PEKING, December 20, 1927.

MY DEAR LAMPSON: I thank you very much for your courtesy in sending me, with your note of December 14th, an extract from a telegram which you had just received from Canton ⁴³ regarding the assistance rendered by H. M. S. *Moorhen* in the evacuation of foreigners during the recent communist disturbances in that region.

The activities of the H. M. S. *Moorhen* in behalf of Americans is deeply appreciated by this Legation, and I should be most pleased if you would be so good as to express to the proper British naval authorities my gratitude in this connection.

Yours, very sincerely,

J. V. A. MACMURRAY

⁴² Copy transmitted to the Department by the Minister as an enclosure to his despatch No. 1346, Jan. 9, 1928; received Feb. 18.

⁴³ Neither note nor its enclosure is printed.

893.00/9658 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 29, 1927—6 p. m.

[Received December 29—1:30 p. m.⁴⁴]

1132. 1. Following from Hankow:

“December 23, 4 p. m.

(1) *Monocacy* has arrived at Hankow and *Palo[s]* expected shortly. Naval authorities plan to send these vessels to Ichang in January. It is understood that the despatch of one of them to Chungking is under contemplation.

(2) Conditions at and above Ichang to Wanh sien show superficial improvement because of more complete control of that area by Yang Sen and absence for the moment of war preparations. British contemplate immediate reopening of their consulate at Ichang. It would not seem to be likely that with the gradual clarification of the situation in the Wuhan area the authorities here would permit for long the unmolested collection by Yang Sen of considerable revenues at Ichang. The result of the destruction of Yang Sen's authority there and in the gorges would be a reversion for a time at least to unhampered banditry.

(3) Reliable reports from Chungking state conditions in that city at present are tranquil and attitude of the Chinese friendly towards all foreigners. And other extraterritorial exponents [*sic*] in Chungking have been forced to subscribe to military loan. This constitutes one further step in break-down of their extraterritorial status in an area where consummated tranquility and friendliness have no better guarantee than that afforded by local and temporary military authority.

(4) Vessels of the Yangtze Rapid[s] Steamship Company are now, and have been since their resumption of upper river sailings, subject to constant interference by Szechuan military authorities who have exacted tribute and commandeered them for troop movements in the same manner as they have vessels flying Chinese flag.

(5) If the American naval policy toward Yangtze Rapid[s] steamers contemplates protecting Americans against abuse by Chinese military, as has been the naval policy in the past, it is assumed that the naval authorities will have sufficient force and will be prepared to prevent commandeering of vessels flying American flag for transportation of armed troops or to remove promptly armed troops who board such vessels. This task will probably be the more difficult because of unhindered use of such vessels by Chinese military during past few months. The fact should not be overlooked that in the past clashes between foreign naval vessels and military have given rise to antiforeign agitation.

(6) If American naval vessels should return to Szechuan and the consulate at Chungking be reopened, [an?] impetus will be given to return of Americans to interior of Szechuan. There are now about 17 Americans in Chungking and 21 west of Chungking excluding those at Batang. The reopening of the consulate at Chungking ultimately would render it essential that the officer in charge be

⁴⁴ Telegram in two sections.

given instructions clearly defining his attitude towards the extension of protection to Yangtze Rapid[s] steamers. It goes without saying that the attitude of the consulate and Navy toward these vessels should be identical."

2. I feel that the possibility of any advantage to be gained by opening Chungking or Ichang consulate is outweighed by the likelihood of occurrence of incidents if we properly protect our nationals in this no man's land of the Yangtze or the added loss of prestige we would suffer to the further detriment of our traders should we not protect our flag.

3. The British are experiencing considerable difficulty and embarrassment owing to the insistence of their missionaries upon returning to interior of Szechuan consequent upon the return of British consul to Chungking. It is certain the return there of American vessels would create similar problem for us.

4. In view of these and of uncertainty of present situation in the [apparent omission] and Upper Yangtze and probabilities of hostilities at Ichang, I believe it inadvisable to endeavor to send consular officers at present either to Chungking or to Ichang.

MACMURRAY

893.00/9688 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, January 4, 1928—5 p. m.

3. Your 1132, December 29, 6 p. m.

1. The Department agrees with you as to the inadvisability of sending consular officers permanently to Ichang or Chungking at this time, although it desires to see American enterprises resume operations on the Upper Yangtze as soon as this is prudent.

2. The Department will receive with interest any information which may be obtained by the American naval vessels if they make their projected trips of investigation. If you consider it wise you may arrange with the American naval authorities for a consular officer, designated by you, to proceed on one of the vessels to Ichang or Chungking to report on conditions.

KELLOGG

TAKING OVER OF THE RUSSIAN DEFENSE SECTOR OF THE PEKING LEGATION QUARTER BY LEGATION GUARDS OF OTHER POWERS

893.00/8611 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 7, 1927—8 a. m.

[Received April 7—3:20 a. m.]

366. 1. Competent Chinese local authorities having yesterday requested permission to enter the diplomatic quarter in order to make

a search of certain private properties (of the Dal Bank and the Chinese Eastern Railway) adjacent on the west to the Soviet Embassy on the ground that these places were known to be headquarters of subversive Soviet agitation, Senior Minister gave the necessary authorization in behalf of diplomatic quarter and a raid upon these premises by members of the metropolitan police force and by a small body of supporting troops was commenced shortly after 11 yesterday morning. In the course of it the Chinese went beyond their authorization and raided also compound of the former Russian Legation guard lying westward of the private properties in question. Except that 4 Russians barricaded themselves in a house with a view to defending themselves with a machine gun and revolvers and set fire to various papers and to the house itself but were eventually overpowered without their using their weapons, there was no fighting whatever and no serious injury sustained on either side. Considerable numbers of Russians were observed to escape over the wall into the property of the Russian Embassy in the grounds of which they later appeared heavily armed evidently with a view to repelling possible raid there. So far as can be ascertained, thus far approximately 20 Russians have been arrested and about 30 Chinese including prominent Communist, Li Tav-chu [*Li Ta-chao?*]. Considerable quantities of propaganda and various documents have been seized. A machine gun, about 30 rifles and a large but unknown quantity of revolvers all with ammunition have been found by the Chinese, as also a tremendous number of Kuomintang flags, Soviet flags with Chinese inscriptions and banners for demonstration purposes. Search of the premises is still being carried on.

2. Senior Minister proposes to enter without delay a protest to the Chinese authorities against entering former guard compound which was not included in his authorization.

MACMURRAY

893.00B/274 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 8, 1927—9 a. m.

[Received April 8—7 a. m.]

377. Supplementing my telegram number 366, April 7, 8 a. m.

1. I learned that among other results of the raiders the police found list of 4,000 Communist agents in Peking and the seals of the local anti-British and anti-Japanese agitation committees.

2. Police were supported by *gendarmerie* instead of by troops, as stated in my previous telegram.

MACMURRAY

893.00/8631: Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, April 9, 1927—1 p. m.

[Received—9:30 p. m.]

390. Legation's telegrams of April 7, number 366, 8 a. m., and April 8, number 377, 9 a. m.

1. The sector held formally [*formerly?*] by the Russian Legation guard has constituted hiatus in the defense system of the Legation quarter since the reoccupation of the Russian property by the Soviet. As a result of the Chinese raid upon Russian properties on April 6th it is disclosed that not only is this sector undefended but it is occupied by a group that is actively antagonistic to the foreign interests for which the quarter was designed by the Boxer protocol⁴⁵ to be a defensible base.

2. A recommendation to the diplomatic representatives of the protocol powers was formulated at a meeting yesterday by the commandants of the five Legation guards, to the effect that the portion of the former Russian Legation which formed a part of the quarter's system of defense should be turned over to those who are responsible for defense of the Legation quarter, in order that the proper defense thereof might be provided for in the same manner as was done in the cases of the German, Austrian and Dutch defense sectors upon the withdrawal of their respective guards.

3. Yesterday evening the interested Ministers considered this recommendation and all were in full agreement in regard to the urgent military necessity of guarding the former Russian sector, although it was felt by the British Minister, the Italian Chargé d'Affaires, and me that we must request instructions in this connection. All rights pursuant to the Boxer protocol having now been professedly renounced by the Soviets, occupation of the former Russian guard property is anomalous, and the interested Ministers felt that no more of it should be occupied than is actually necessary for the purpose of defending the quarter, the remainder of the property being left free for the Russians to use.

4. A discussion has been fixed for April 12th. For the purpose of this discussion it is earnestly requested that you approve my joining, in accordance with the following formula, in giving authorization for action upon the recommendation of the guard commandants:

"It is a general principle that the defense wall of the diplomatic quarter must, in case of emergency, be manned by the available forces of the several Legation guards. In accordance with this principle, it should be arranged that troops belonging to the other guards will

⁴⁵ Art. VII, *Foreign Relations*, 1901, appendix (Affairs in China), p. 316.

in the future occupy that portion of the wall formerly assigned to the Russian Legation guard."

5. The occupation of this property by the international guards should, it is obviously desirable, be achieved by arrangement with the Chinese who remain in possession, rather than by seizure (in the case either of occupation prior to or during an actual attack upon the quarter). In view of this desirability, until such time as this question is decided, the Senior Minister is authorizing the Chinese, day by day, to enter the quarter for further investigation.

MACMURRAY

893.00/8631 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, April 11, 1927—noon.

141. Paragraph 4 of your No. 390, April 9, 1 p. m. You are given authorization to act with your colleagues in the manner you suggested.

KELLOGG

893.00/8739 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 21, 1927—11 p. m.

[Received April 21—3:37 p. m.]

469. My 390, April 9, 1 p. m. Detachments from the Legation guards (American, British, Italian and Japanese) today took over the defense of the wall formerly defended by the Russian Legation guard.

MACMURRAY

701.0093/114

The Chargé in China (Mayer) to the Secretary of State

No. 1268

PEKING, November 9, 1927.

[Received December 28.]

SIR: I have the honor to enclose a clipping from the *North China Standard* of October 27th,⁴⁸ describing the additions to the defensive works of the Diplomatic Quarter of Peking, which recently have been undertaken after approval of the recommendations by the Legation Guard Commandants by the Ministers of the Protocol Powers. The cost of these improvements will be defrayed from the accounts of the

⁴⁸ Not printed.

Administrative Commission of the Diplomatic Quarter. It is hoped however that a substantial donation will be made by the Chartered Bank of India, Australia, and China, Ltd., to be charged off the cost of the new wall since that Bank will now be inside the defense line of the Quarter, it being situated on that section of the Rue Linievitch south of the new wall.

I confess to a feeling of satisfaction that this project is now being undertaken and should soon be completed. As the Department is no doubt aware the previously existing defenses left the American Legation as well as the Quarter open to direct attack from the North down the Rue Linievitch. I have always been apprehensive that should a mob take advantage of this opportunity it might have to be opposed by bayonets or fire-action rather than be left to a harmless beating itself out of its hysteria against a stone wall or gates, for which the present arrangement now makes provision all around the Quarter.

I have [etc.]

FERDINAND MAYER

PROTECTION OF SWISS CITIZENS IN CHINA

704.5493/14

The Secretary of State to the Minister in China (MacMurray)

No. 394

WASHINGTON, December 31, 1926.

SIR: You are informed that in a note dated December 8, 1926, which has been received from the Legation of Switzerland at Washington,⁴⁷ request is made that, in view of the present conditions in China, the Government of the United States may authorize the protection by its diplomatic and consular officers in China of Swiss citizens in that country.

You are accordingly authorized, provided that Chinese authorities approve, to extend your unofficial good offices in behalf of Swiss citizens in China and you are requested so to inform the American consular officers in such places in China as the Government of Switzerland has no representative. You will also please request all the American consular officers in China to report by mail the exact date on which they assume Swiss representation and whether in any case they take over the custody of Swiss archives or other official property. In such event, they should also furnish the Department with an inventory of the property coming into their possession. A similar report should be submitted by your Mission.

I am [etc.]

For the Secretary of State:

JOSEPH C. GREW

⁴⁷ Not printed.

704.5493/15 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 23, 1927—6 p. m.

[Received March 23—9:20 a. m.]

243. Department's instruction 394, of December 31, 1926. Legation has ascertained from French Legation that it is charged with protection of Swiss interests in China. In view of this fact I respectfully request to be informed whether it should act in accordance with the provisions of instruction aforementioned, which I have deferred putting into effect pending receipt of information now received, regarding the consular districts wherein Swiss nationals reside.

MACMURRAY

704.5493/15 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, March 26, 1927—6 p. m.

103. Your 243, March 23, 6 p. m. The Department has informed an officer of the Swiss Legation that this Government will be glad to extend to Swiss citizens in China the benefit of safety measures taken for American citizens when French civil or military agencies for such protection are absent. You are requested to bring this arrangement to the attention of the American consular and naval officers in China.

KELLOGG

704.5493/17

The Chargé in China (Mayer) to the Secretary of State

No. 1291

PEKING, November 29, 1927.

[Received January 9, 1928.]

SIR: Adverting to the Department's telegraphic instruction No. 103, of March 26th, 6 p. m., regarding the extension to Swiss citizens in China of the benefit of safety measures taken for American citizens, I have the honor to apprise you that the American Consul at Harbin, in a despatch to the Legation, No. 1618, of November 17, 1927,⁴⁸ requested to be instructed whether or not the Consulate officially or unofficially should make representations to the Chinese authorities in regard to matters of taxation and other protection questions on behalf of Swiss citizens.

In an instruction dated November 26, 1927,⁴⁸ I replied that I did not feel that the Department, in directing that Swiss citizens be allowed to benefit by safety measures taken for American citizens, intended thereby to authorize intervention on their behalf in taxation matters. I added that Swiss citizens in China were under the protection of the

⁴⁸ Not printed.

Swiss Consulate at Shanghai and of the French Legation in Peking, and that I had been informed by the latter that it would be quite in order for Swiss citizens at Harbin to address themselves in matters of taxation to the French Consul there.

Copies of Mr. Hanson's despatch and of my reply thereto are enclosed.^{48a}

I have [etc.]

FERDINAND MAYER

704.5493/15

The Secretary of State to the Minister in China (MacMurray)

No. 760

WASHINGTON, January 31, 1928.

SIR: The Department has received the Legation's despatch No. 1291 of November 29, 1927, regarding the making of representations by American consuls on behalf of Swiss citizens in matters of taxation and other protection questions. The Department approves the Legation's instruction to the American Consul at Harbin of November 26, 1927, stating that representations of this nature were not intended to be authorized by the Department.

I am [etc.]

For the Secretary of State:

NELSON TRUSLER JOHNSON

CONTINUATION OF THE EMBARGO ON SHIPMENTS OF ARMS TO CHINA *

893.113/1030

The Minister in China (MacMurray) to the Secretary of State

No. 938

PEKING, March 2, 1927.

[Received April 4.]

SIR: I have the honor to transmit herewith a copy of a despatch from the American Consul General at Canton, No. 587 dated January 26, 1927, transmitting a translation of a despatch from the Foreign Affairs Department of the Canton régime,⁵⁰ stating that the Lee Loong Company has been granted a monopoly for the sale in Kwangtung Province of certain articles which are classed as "explosives" and which include sulphur, saltpetre, smokeless powder, Chilian salt-petre and nitrate of silver.

According to Mr. Jenkins the Lee Loong Company is a private concern and it alone is authorized to import and distribute the articles mentioned. He requested that the Legation communicate to him its views with regard to the matter.

^{48a} Not printed.

⁴⁹ Continued from *Foreign Relations*, 1926, vol. I, pp. 733-736.

⁵⁰ Despatch from Canton Foreign Affairs Department not printed.

There is transmitted also a copy of my instruction in reply, dated February 23, 1927, in which I pointed out that, aside from the violation of treaty involved in the establishment of a monopoly, the articles monopolized include several commodities which are used for commercial and industrial purposes, and as little restriction as possible should be placed on their importation and sale. I authorized him, in his discretion, to protest against the restrictions on the transportation and sale of these commodities when they are destined for ordinary industrial or commercial purposes.

I have [etc.]

J. V. A. MACMURRAY

[Enclosure 1]

The Consul General at Canton (Jenkins) to the Minister in China (MacMurray)

No. 587

CANTON, January 26, 1927.

SIR: I have the honor to enclose a translation of a despatch dated December 28 [18], 1926, from the so-called Acting Minister of Foreign Affairs,⁵¹ concerning the establishment of a monopoly for the sale of explosives in Kwangtung Province, including sulphur, salt-petre, powder and silver nitrate. It will be observed that this monopoly has been granted to a private concern which alone will be authorized to import and distribute the articles mentioned.

While it is assumed that the Chinese Government has a right to place any restrictions it may deem proper upon the importation of munitions of war, including explosives, it has occurred to me that there should be some means of determining the proper classification of such articles and that this Consulate General should protest against restrictions on the importation of commodities destined for ordinary commercial uses although susceptible of employment in connection with the manufacture of munitions of war.

Trusting the Legation will be so good as to let me have its views in regard to this question,

I have [etc.]

DOUGLAS JENKINS

[Enclosure 2]

The Minister in China (MacMurray) to the Consul General at Canton (Jenkins)

PEKING, February 23, 1927.

SIR: The receipt is acknowledged of your despatch No. 587 of January 26, 1927, transmitting a communication from the Foreign Affairs Department of the Canton Government with regard to the establishment of a monopoly for the sale of certain explosives in

⁵¹ Eugene Ch'en. Despatch not printed.

Kwangtung Province. As the Legation understands, the Lee Loong Company have been granted a monopoly for the sale of the following articles: sulphur, salt petre, smokeless powder, Chilean salt petre, and nitrate of soda. Likewise when purchasing or transporting other articles of similar nature, not specified, it is necessary to obtain certificates from the above mentioned company. You request the views of the Legation in reference to the action you should take.

In reply, I beg leave to state that aside from the question of a violation of treaty involved in the establishment of a monopoly for the sale of these articles it appears that they include several commodities which are extensively used for commercial and industrial purposes, and as little restriction as possible should be put on their importation and sale. I may add in this connection, however, that for some time past negotiations have been carried on between the Waichiao Pu and the interested Legations concerning restrictions on the importation of these articles. It is the opinion of the Diplomatic Representatives that the list of prohibited articles should be made to contain exclusively such articles as can reasonably be described as "arms and munitions" as it is evident that only in this way can the said list be made to comply with Rule 3 of the Revised Import Tariff.⁵²

You are accordingly authorized in your discretion to protest to the Canton authorities against the restrictions placed by them on the transportation and sale of these commodities when they are destined for ordinary industrial or commercial purposes.

I am [etc.]

J. V. A. MACMURRAY

893.113/1041

The Minister in China (MacMurray) to the Secretary of State

No. 983

PEKING, April 6, 1927.

[Received May 28.]

SIR: With reference to my despatch No. 938 dated March 2, 1927, concerning a monopoly for the sale of sulphur and saltpetre and other chemicals established by the Canton Government, I have the honor to enclose herewith a copy of a further despatch, No. 616, dated March 16, 1927, on this subject received from the American Consul General at Canton.

In view of the tenor of the reply from the Acting Minister of Foreign Affairs to the American Consul General at Canton the Legation has instructed the Consulate General to take no further action in the matter until instructions have been received from the Department.

I have [etc.]

J. V. A. MACMURRAY

⁵² See treaty between the United States and China, signed at Washington, Oct. 20, 1920, annex II, rule III, *Foreign Relations*, 1921, vol. I, pp. 459, 491.

[Enclosure]

*The Consul General at Canton (Jenkins) to the Minister in China
(MacMurray)*

No. 616

CANTON, March 16, 1927.

SIR: In connection with the Legation's instruction of February 23, 1927, concerning a monopoly established by the Canton Government for the sale of certain explosives in Kwangtung Province, including sulphur, saltpetre, smokeless powder, Chilian saltpetre, and nitrate of soda, I have the honor to transmit copies of this Consulate General's despatch of March 7 to the Acting Minister of Foreign Affairs and the latter's reply of March 14, 1927. It will be observed that the Acting Minister is not disposed to acquiesce in the views expressed by the Legation in respect to the importation of the chemicals mentioned for ordinary industrial purposes.

Unless specifically instructed to do so this Consulate General will not reply further to this despatch from the Cantonese authorities.

I have [etc.]

DOUGLAS JENKINS

[Subenclosure 1]

*The Consul General at Canton (Jenkins) to the Acting Minister of
Foreign Affairs at Canton (Ch'en)*

CANTON, March 7, 1927.

SIR: I have the honor to refer to your despatch of December 18, 1926,⁵³ concerning the creation of a monopoly for the importation and sale of explosives including such articles as sulphur, saltpetre, smokeless powder, Chilian saltpetre and nitrate of soda. It is observed that the monopoly is to be administered by the Lee Loong Company which has the right to collect fees for certificates to be issued in accordance with the existing regulations.

In reply I have the honor to inform you that this Consulate General is in receipt of a communication from the American Minister at Peking expressing the opinion that the list of prohibited goods mentioned in the despatch under acknowledgment should be made to contain only such articles as can reasonably be described as "arms and ammunition" since it is evident that only in this way can the list be made to comply with Rule 3 of the Revised Import Tariff. Moreover many of the articles mentioned in your despatch as subject to the provisions of the monopoly are extensively used for ordinary commercial and industrial purposes, and as such the American Legation does not believe their importation should be subject to a monopoly or otherwise restricted.

I have [etc.]

DOUGLAS JENKINS

⁵³ Not printed.

[Subenclosure 2]

*The Acting Minister of Foreign Affairs at Canton (Ch'en) to the
Consul General at Canton (Jenkins)*

[CANTON,] March 14, 1927.

SIR: In reply to your despatch of March 7, 1927, concerning the monopoly established by my Government for the sale of certain explosives, and presuming that the explosives should not include articles used for ordinary commercial and industrial purposes, I have the honor to inform you that the creation of a monopoly for the sale of explosives is a matter falling with[in] the scope of the internal administration of my Government, and therefore is not subject to the intervention of foreigners.

Referring to Rule 3 of the Revised Import Tariff as mentioned in your despatch under acknowledgment, I may say, however, that the said Rule is an enlargement originally made on Article V[I], Rule 5 of the Commercial Treaty concluded in the 8th year of the Hsien F'eng Emperor (1858),⁵⁴ which not only contains arms and ammunition, but also salt as well as those articles necessary for the manufacture of firearms. (In the Commercial Treaty made in the 8th year of the Hsien F'eng Emperor (1858), articles such as Saltpetre, Sulphur, Brimstone and Spelter are included).

You further mention in your letter that while many of the articles prescribed under the provisions of the monopoly are used for ordinary commercial and industrial purposes, you do not trust that they should be subjected to the restriction. I may point out, however, that in spite of salt being the daily necessity of the people, its illegal transportation and sale are also prohibited by my Government. It is obvious therefore that this case may be more or less misunderstood by the American Minister at Peking.

With compliments.

CHEN YU-JEN

893.00 B/306 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Extract—Paraphrase]

PEKING, May 4, 1927—11 a. m.

[Received May 4—6:30 a. m.]

518. The following has been received from the American consul at Canton:

Reliable information has been received by me to the effect that General Li Chai-sum⁵⁵ is in serious need of arms and ammunition

⁵⁴ Malloy, *Treaties*, 1776-1909, vol. I, p. 222, 230.

⁵⁵ Also known as Li Chi-shen, military commander of Canton and supporter of Chiang Kai-shek in Kwangtung Province.

at this time. Cancellation of the arms embargo agreement ⁵⁶ is favored by many foreigners as being much fairer to all parties concerned than is the existing situation. The political groups most friendly to us are adversely affected by the present situation.

MACMURRAY

893.113/1041

The Secretary of State to the Minister in China (MacMurray)

No. 559

WASHINGTON, June 21, 1927.

SIR: The Department has received your despatch No. 983 of April 6, 1927, with regard to a monopoly for the sale of sulphur, saltpetre and other chemicals which has been established by the Chinese authorities at Canton.

The Department is of the opinion that no further action need be taken in this matter for the present.

I am [etc.]

For the Secretary of State:

JOSEPH C. GREW

893.113/1061 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 23, 1927—7 p. m.

[Received December 23—12:50 p. m.]

1122. American consul in charge at Canton is in receipt of letter of November 6 from president of Lakragas Corporation, 729 Washington Boulevard, Chicago, manufacturers of tear gas and protective devices, stating that company was sending James Lee Loo, an American citizen of Chinese descent, to represent it in China; that Loo was due to arrive Hong Kong about December 30; and that company would appreciate any courtesy or assistance rendered him. Consul requests Legation's instructions before replying. I feel that tear gas comes within scope of arms embargo but desire to present matter for the Department's approval and instructions before replying to Huston.

MACMURRAY

893.113/1061 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, December 23, 1927—6 p. m.

429. Your 1122, December 23, 7 p. m. Department agrees with you that tear gas comes within scope of arms embargo and you should instruct Consul at Canton accordingly.

KELLOGG

⁵⁶ See *Foreign Relations*, 1919, vol. I, pp. 667 ff.

REFUSAL BY THE UNITED STATES TO DISCONTINUE WIRELESS
STATION ON WARSHIP ON THE YANGTZE RIVER AT REQUEST OF
CHINESE NATIONALIST AUTHORITIES

893.74/745: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 16, 1927—7 p. m.

[Received March 16—12:45 p. m.]

223. 1. Following telegram has been received from American consul general, Hankow⁵⁷:

"March 14, 4 p. m. The Nationalist authorities have filed formal protest with me against the presence of 'the wireless station on a certain man-of-war in the river in the vicinity of Hankow'. It is pointed out that this station (which is on the U. S. S. *Isabel*) is in frequent operation and that its position is practically fixed at one place, and complaint is made that communication between the various Chinese wireless stations is disturbed and that it is feared that military secrets will be divulged. The Ministry of Communications in bringing the matter to the attention of the Minister for Foreign Affairs, states that 'the free communication by wireless stations on foreign men-of-war has infringed the sovereign rights of the country' and that the wireless station in question is always in port and every day is in constant operation and does not differ from the wireless station on land. Request is made of the Minister for Foreign Affairs that he demand of me the immediate removal of the station 'in order to avoid disturbance and to protect sovereign rights'. The Commissioner of Foreign Affairs in transmitting the above on behalf of the Minister of Foreign Affairs states 'the installation of wireless stations by foreign men-of-war in the interior of China and the freedom in communication is in fact infringing the sovereign rights of the country and I am instructed to request that you will notify the ship to remove the wireless station at once in order to strengthen our international friendship'.

An effort was made some time ago to make an allotment of time between the American ship station here and the Wuchang station but an arrangement mutually satisfactory could not be effected. Ch'en⁵⁸ claims that the American ship station seriously interferes with the transmission of messages between Wuchang and Canton, the traffic between those two stations being very heavy. I have furnished Admiral Hough with a copy of the note from the Commissioner of Foreign Affairs and requested his comment."

2. Comments of Admiral Hough⁵⁹ in connection with protest of Nationalist regime have been requested and will be telegraphed when received.

MACMURRAY

⁵⁷ Frank P. Lockhart.

⁵⁸ Eugene Ch'en, Minister for Foreign Affairs in the Nationalist Government at Hankow.

⁵⁹ Rear Admiral Henry H. Hough, U. S. N., commander of the Yangtze Patrol.

S93.74/747 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 21, 1927—6 p. m.

[Received March 21—1:35 p. m.]

233. My March 16, 7 p. m. Following received from American consul general at Hankow:

"March 19, 11 a. m. Your [My?] March 14, 4 p. m. Following is Admiral Hough's comment:

"There has been no secret installation of a radio set in violation of international law.

It is imperative that the commander of the Yangtze Patrol be always in constant communication with all of the vessels under his command and with commander in chief, in order to keep fully informed and to protect the lives and property of American nationals, both in constant jeopardy, from attacks of unruly groups of coolies, mobs, and even organized military—from unauthorized and illegal seizure and commandeering by the military, of American vessels for unlawful purposes—and from lawless firing by military and bandits upon American vessels passing from point to point on the Yangtze in pursuance of their lawful business and rights as [apparent omission] by treaties.

Further, in view of the fact that the telegraph lines are frequently interrupted, it is now necessary to afford the consul general at Hankow quick and reliable means of communication with the American Minister at Peking.

Furthermore, in view of the unreliability of mail communication, it becomes absolutely necessary to transmit by radio many matters that under ordinary conditions could be transmitted by mail.

In view of all the above, the continuance of the radio service under my direction is an absolute military necessity which it is my intention to continue as long as the conditions above described may make necessary.'

I concur in Admiral Hough's comment and am firmly convinced that the maintenance of radio communication under the present conditions in the Yangtze Valley is imperative."

I entirely concur with comments of Admiral Hough and Consul General Lockhart as to imperative necessity especially under present conditions for the maintenance of untrammelled radio communication among American war vessels in Chinese waters. If the Department approves I shall instruct Lockhart to endeavor to arrive at a satisfactory schedule with the Nationalist authorities for transmission of radio messages on the part of the Navy.

MACMURRAY

S93.74/747 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, March 22, 1927—4 p. m.

97. Your 233, March 21, 6 p. m. Department approves your proposal to instruct Lockhart to endeavor to arrive at a satisfactory schedule with the Nationalist authorities for transmission of radio messages on the part of the Navy.

KELLOGG

893.74/749 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 8, 1927—11 a. m.

[Received April 8—7:10 a. m.]

379. 1. Following from American consul general, Hankow:

"April 5, 2 p. m. Your March 24, noon. I request authority to defer for the present effort to arrange radio schedule. The situation is not propitious for satisfactory adjustment of the question, and the urgent need of unrestricted radio facility for our naval vessels makes it advisable, in my opinion, to postpone suggested actions for the time being."

2. The Legation has authorized deferring for the present effort to arrange radio schedule.

MACMURRAY

DISINCLINATION OF THE UNITED STATES TO JOIN IN INTERNATIONAL ACTION TO SUPPRESS PIRACIES IN CHINESE WATERS

393.115 St 2/157

The Chargé in China (Mayer) to the Secretary of State

No. 891

PEKING, January 19, 1927.

[Received March 3.]

SIR: I have the honor to refer to despatch No. 583, of December 10th, to the Legation from the American Consul General at Canton, five copies of which are stated to have been sent to the Department,⁶⁰ and to enclose a copy of despatch No. 586, of December 30th, from the aforementioned office,⁶¹ both relative to losses sustained by the Standard Oil Company as a result of piracies and to the filing of claims in connection therewith. The first despatch raises the question as to whether the Nationalist Government should be held responsible for the reimbursement of the Standard Oil Company for its losses should restitution not be possible, and adds that the question has arisen whether Article XIII of the Treaty of Tientsin⁶² is applicable. Mr. Jenkins⁶³ makes the statement that the Consulate General would be glad to be relieved of the responsibility of filing claims of this nature. The second despatch encloses a copy of a letter from the Standard Oil Company of New York,⁶¹ in which the agent of the Company evidences a disposition to refrain

⁶⁰ Not found in Department files.

⁶¹ Not printed.

⁶² Treaty of peace, amity, and commerce between the United States and China, signed at Tientsin, June 18, 1858, Malloy, *Treaties, 1776-1909*, vol. i, pp. 211, 215.

⁶³ Douglas Jenkins, consul general at Canton.

from demanding reimbursement from the Nationalist Government in such cases of piracy, confining claims to losses resulting from looting by troops, or cases in which the local authorities have been in collusion with the robbers.

It will be observed from the enclosed copy of the reply which the Legation has made to Mr. Jenkins⁶⁴ that I agree with him that no useful purpose would be served by continuing to present at this time claims for losses on account of piracy in cases which do not involve responsibility by the Chinese Government or its agents. I have authorized him, accordingly, to await the decision of the Department before further pressing claims for losses on account of piracies which do not involve this factor.

I have [etc.]

FERDINAND MAYER

393.115 St 2/157

The Secretary of State to the Minister in China (MacMurray)

No. 479

WASHINGTON, April 4, 1927.

SIR: The Department refers to the Legation's despatch No. 891 of January 19, 1927, and approves the Legation's instruction to the American Consul General at Canton in regard to the presentation of claims of American citizens growing out of piracies.

It is assumed that the American Consulate General in taking claims up with the Nationalist Government is doing so only for the purpose of endeavoring to effect a settlement in accordance with the existing arrangement for local settlement with the provincial authorities.

I am [etc.]

For the Secretary of State:

JOSEPH C. GREW

893.8007/28 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, November 17, 1927—7 p. m.

[Received November 18—1:45 p. m.]

1004. 1. Problem of piracy along China coast has caused diplomatic representatives much concern, especially of late, in view of increasing piratical activity and scope. We have frequently discussed matter in diplomatic body meetings to the end that some successful method might be found of dealing with the question. Finally under date of September 21st, 1927, the Senior Minister,⁶⁵ in diplomatic circular

⁶⁴ Not printed.

⁶⁵ W. J. Oudendijk, Netherland Minister in China.

number 142,⁶⁶ invited attention of his colleagues to the common danger and requested suggestions as to possibilities of joint immediate action by the powers.

2. While no instances of pirating of American vessels on China coast have occurred during recent years the danger and distress of general situation appear applicable to us as well as to powers more immediately concerned since our nationals are constantly travelling and transporting their effects on coasting vessels and are thus directly liable to piratical attack. Furthermore we have been much concerned over the possibility, if not indeed strong likelihood, that with increasing success and activity the pirates would sooner or later attack an American President liner.⁶⁷ This apprehension is confirmed by a recent discovery at Hong Kong of a plot to pirate such a vessel, the attempt only having been prevented it appears by prompt action taken at Hong Kong.

3. The Kwangtung Chinese authorities have shown an entire unwillingness to cope with the problem although repeatedly and strongly urged. I believe that typically they will follow line of least resistance which as presently constituted means to allow the pirates to have their way. Should these authorities be brought clearly to understand that the foreign nations concerned will no longer tolerate the deplorable state of affairs and will take steps to protect their nationals if Chinese fail to do their duty in regard to it, the latter may then find the line of least resistance [that they?] themselves suppress piracy.

4. As a result of circular number 142, Senior Minister, at request of all Heads of Legation, appointed the British, French, Japanese and Italian Ministers and myself a committee to draft note to the Chinese authorities concerned which all diplomatic representatives could submit to their Governments for approval. The following is said draft:

"The powers, represented in China by the undersigned, seriously perturbed by the persistent recurrence of piracy in southern Chinese waters, notably in Bias Bay, have given close attention to the problem and feel obliged to make the following communication:

Pirates are recognized as the confederated enemies of the human race and their suppression is an international duty incumbent on the authorities of all civilized countries. In addition, a special obligation devolves on the Chinese authorities in the present case since the pirates operate from bases on China soil, whither they take captured vessels, persons and loot, and themselves retire for refuge.

It is thus clear that the suppression of pirates in Chinese waters is primarily the duty of the Chinese authorities concerned, who will readily recognize that it is in their own interest to fulfill it

⁶⁶ Not printed.

⁶⁷ Liners of Dollar Steamship Co. named for Presidents of the United States.

since the insecurity created by piratical activities is as prejudicial to the interests of Chinese citizens as it is to those of foreigners.

Realizing however their joint interest in the matter, the powers desire not only to draw attention to the existence of the evil and the necessity for its suppression but also to offer their effective cooperation to the local Chinese authorities. They will gladly discuss any suggestions regarding the form of such cooperation that Chinese authorities may care to put forward.

The powers earnestly trust that the Chinese authorities concerned will hasten to respond to their offer. They feel it necessary to declare that, failing early and effective action, with or without foreign cooperation, they will be obliged, in view of the alarming proportions which piracy has assumed and the risk which it constitutes to foreign ships and nationals, to hold the proper Chinese authorities responsible for any loss or damage resulting from the activities of Chinese pirates and, in addition, themselves to take appropriate measures for their own protection."

The consuls concerned are to present the note either jointly or in identic form, in the discretion of the consuls, to the head of Canton regime, whoever he may be at the moment.

5. The committee also discussed the question of practicable defensive measures with the idea that our Governments would desire to agree as to them before approving the despatch of the note aforementioned. We decided that the only feasible plan was that of a continuous international naval patrol on waters of Bias Bay which we have every reason to believe would be entirely effective for the suppression of piracies. Upon the receipt of the approval of our Governments to despatch of note we purpose to request the admirals concerned to decide how best to carry out the patrol.

6. I respectfully request authority to join in the matter. I believe all the powers will agree to do so but recommend to the Department its adherence to the suggested method of treatment for the suppression of piracy here even should only Great Britain, France, Japan, and Italy agree. It was a foregone conclusion that British will agree, the French and Italian Ministers expect approval and as Japanese Minister is heartily favorable his Government's prompt adherence would appear likely. The drafting committee decided to submit the matter to their Governments [to] seek their approval before placing the proposed draft note before the Heads of Legation as a whole. In the circumstances an early reply is respectfully requested.

7. Above repeated to commander in chief, United States Asiatic Fleet,⁶⁸ for his confidential information.

MAYER

⁶⁸ Admiral Mark L. Bristol, U. S. Navy.

893.8007/28 : Telegram

The Secretary of State to the Chargé in China (Mayer)

[Paraphrase]

WASHINGTON, November 23, 1927—11 a. m.

386. Legation's 1004 of November 17, 7 p. m.

1. In view of the failure of similar methods which the Department understands have been used by British authorities, the Department finds it difficult to believe that the proposed identic or joint note to Canton authorities in regard to piracies will be conducive of any good.

2. Considering that there is a very real likelihood that the mere delivery of such a note will not, in itself, succeed in bringing about any effective action by the responsible Chinese authorities for the protection of foreign shipping against piracies in Chinese waters, it would seem that the real object of the proposed note is to signify to the Chinese the intention of the participating powers to serve notice thereby upon the Chinese that they are ready to cooperate in active military and naval action in order to bring an effective end to piracies in Chinese waters. In view of recent similar activities of British naval forces at Bias Bay, which activities appear by the way to have been ineffective in achieving the desired object, such a plan doubtless would involve the patrol of Chinese ports, the bombardment of towns and the landing of armed parties on occasions when specific American interests were not directly involved. Consequently, before undertaking to engage this Government to cooperate in such a plan, I desire more information concerning the situation.

3. I desire, more particularly, that the commander in chief of the United States Asiatic Fleet advise as to whether, in his opinion, the present conditions are such as to warrant us in undertaking a general campaign of such a nature against pirates in cooperation with other powers, especially considering the fact that American vessels appear not to have suffered from such attacks. In case the commander in chief wishes to recommend any such cooperative action, it is desired that he report his plans, indicating along what lines he would regard cooperative naval action, under present conditions, advisable or useful.

4. From the information available to the Department (see Legation's despatch No. 2224, April 25, 1924; despatch No. 373, November 23, 1926, from the Hongkong consulate to the Department; as well as that consulate's despatch No. 525, September 26, 1927),⁶⁹ it would appear that the piracies being encountered along the Chinese coast are peculiar in that they are perpetrated by Chinese, in the guise of passengers, who board vessels while in port. Under these circum-

⁶⁹ None printed.

stances, the Department desires to know whether it would not be a more effective measure for the shipping companies to institute some means of scrutinizing Chinese passengers and their luggage than to wait until piracies occur and then to take punitive naval action along the coast of China.

5. It is not desired that the Department be considered as lacking an interest in any proposal for coping with the question of piracies which are recognized as a common danger, but the method suggested by the Legation is fraught with such far-reaching consequences that the Department desires the above information before considering what methods, if any, insofar as the United States is concerned, should be adopted for dealing with the situation.

KELLOGG

893.8007/31 : Telegram

The Chargé in China (Mayer) to the Secretary of State

[Paraphrase]

PEKING, November 29, 1927—noon.

[Received November 30—8 p. m.]

1045. The Department's telegram numbered 386, November 23, 11 a. m.

1. Legation has received from commander in chief of the United States Asiatic Fleet the following, which appears to be responsive to the third paragraph of Department's telegram mentioned above:

"November 25. With reference to Legation's 1004 of November 17, 7 p. m. to the Department. In regard to piracy and banditry against foreign ships, it appears from past information on the subject and from other information I have been collecting that piracy in South China has been directed generally against Chinese and some British steamers. A Standard Oil Company motor lighter was pirated on September 11 near Shekpai and all the cargo was appropriated, the vessel being then released. Since this incident, the Navy has convoyed Standard Oil vessels. At a later time when gunboats are available this convoy can be prosecuted more effectively. On the Upper Yangtze banditry is flourishing but American steamers cannot be given any convoy or other assistance in these waters until the gunboats are ready. The Dollar Line manager at Shanghai has furnished me with details concerning a plot last May to pirate a President liner and concerning the safety precautions taken for preventing the plot from being carried out, such as requiring the identification of all Chinese passengers by the comprador or by a Shanghai travel bureau and ceasing for a time the carrying of any third-class Chinese passengers. As a result of the latter precaution competitors have profited, as they made no such restrictions, and the Dollar Line has had the restrictions removed for some time. The only precaution being taken now for protection against pirates is the opportunity afforded, while executing searches for opium smuggling, to discover smuggled arms.

There is no apprehensiveness at this time on the part of the local manager in regard to such activities on President liners. Aside from the reporting of the proposed plot from Hong Kong all action was taken in Shanghai. It is possible that there is some connection between the boycott against the British in the Canton district and the piracy against British ships, in view of reliable reports that wealthy Chinese corporations direct these piracies and that even Hong Kong is being used as one of the bases of operation. The British Admiralty, I am directly informed, is not in sympathy with the bombardment of villages in Bias Bay as a measure to deter piracy. Only a limited number of Americans travel through Southern China waters aboard merchant vessels which may be pirated. Consequently, even though I appreciate the advisability of communicating to the China authorities representations in regard to piracy in these waters and the possibility that there may be greater force in joint representations and likewise that I am not freely informed in regard to the diplomatic situation generally, I would suggest that it is advisable for our Government to make representations by an identical note or even by a similar note particularly applicable to the situation as affecting American interests.

I would appreciate it if you would obtain from the naval attaché articles 721-724, both inclusive, of the Navy regulations, and let me have your comments based on the entire situation, including the proposed representations to the authorities and the facts set forth therein, so that I can send to the Secretary of the Navy an appropriate report.

At present, preliminary to a final decision, I am very much opposed to any joint international patrol for the purpose of suppressing banditry or piracy in Chinese waters. Our Government would be made responsible by any such action for the acts of other nations, but without the authority or power to control such acts.

It is my belief that foreign steamship companies should be held to a responsibility for increasing the present number of foreigners in their crews and for making structural alterations of a protective nature to lend greater security against the seizure of ships by pirates among the passengers. It is the general practice to have a total of six foreigners, including a captain, two mates, a chief and two assistant engineers.

Any representations that are made should be made and delivered to the *de jure* authorities of China, the *de facto* government and the military authorities at various places in China and should be followed up continually by representations of our diplomatic, consular, and naval representatives, such action being taken as may be necessary, with every insistence that banditry, piracy or other interference with American interests to their detriment be prevented."

2. I informed my colleagues at a meeting on November 29 of the drafting committee of the substance of the Department's telegram 386. After consultation with them I submit the following in reply.

3. Concerning paragraph 1 of Department's telegram, although I am doubtful whether the desired result will be brought about by the mere dispatch of a joint identic note to the Chinese authorities, there is nevertheless a chance that it may do so, considering that the present

proposal has the additional and favorable factor of joint participation by the powers concerned, whereas hitherto the British have acted entirely by themselves.

4. In regard to Department's paragraph 2, the object of the proposed joint note would be to make the Kwangtung authorities understand clearly that the deplorable state of affairs will no longer be tolerated by the foreign nations concerned and that the latter will take steps for protecting their nationals in case the Chinese fail in this regard to do their duty. It is hoped that the Chinese authorities, if they can be brought clearly to this understanding, may find it to their advantage to suppress piracy. As indicated in my 1004, November 17, 7 p. m., paragraph 5, the only feasible plan, we are all agreed, would be continuous international naval patrol on the waters of Bias Bay. There is no question involved as to the bombardment of towns and the landing of armed parties. Any action along this line would, we feel, be undesirable and impracticable. If the Chinese should wish our cooperation, warships should not resort to fire action, but should only stand by in support and patrol.

5. Referring to Department's paragraph 4, it is understood by us that all efforts to guard ships against piracy by examining passengers and their luggage has proven ineffective. It seems that all such safeguards have been explored thoroughly and have been tried. There is no practical plan, so far as we are aware, other than a naval patrol continuously in the waters of Bias Bay.

6. It was stated by the British Minister that he had received from his Government instructions approving the draft note, leaving technical matters to the British naval authorities. No instructions had yet been received by the French Minister. It was stated by the Italian Minister that his Government had approved the draft note but had some doubt, owing to the very limited number of Italian vessels in Far Eastern waters, as to their ability to cooperate actively in a patrol. The belief was expressed by Monsieur Vare that his Government had some misapprehension concerning the distance to be covered by the patrol, this distance being relatively very small, and that the question of participation by an Italian war vessel will present no difficulty.

7. The Japanese Government, according to the Japanese Minister, approved the draft note but wished, considering the extent of piracy along the coast of China, to enlarge the scope of our plan to include the waters adjoining Haichow in Kiangsu, another stronghold of pirates north of Shanghai, and to this end it was desired that a similar note be addressed to the Peking as well as the Canton authorities.

8. Although appreciating the viewpoint of the Japanese Government (a number of Japanese steamers having lately been attacked by

Haichow pirates) and although hoping for the elimination of piracy along the entire coast of China, the Italian, British, and French Ministers and myself felt that it would be far wiser not to complicate the present situation, but rather to start with Bias Bay and if successful there to follow a similar procedure in regard to other pirate strongholds such as Haichow. The further observations were made by me that it seems to me, from the general political aspect, unwise to undertake the patrol of more than one area at a time, that a false impression might thus be given to the Chinese to the effect that our plans while purporting to concern piracy alone in fact contemplated general international intervention in Chinese affairs, and that with this in mind I was not able to recommend that my Government participate in the plan as enlarged by the amendment which the Japanese suggested. The hope was expressed unanimously by my colleagues and myself that the Japanese Minister might persuade his Government to withdraw for the moment the Haichow project. A willingness was stated by us to recommend to our Governments that there be incorporated in the original plan a provision for informing the Peking authorities unofficially of the proposed action in regard to Bias Bay, stating that unless meanwhile there was a clearing up of the Haichow situation we would be inclined to take similar action in that connection after a suppression of piracy in the Bias Bay area.

9. It was stated by the Japanese Minister that he would notify his Government by telegraph in this sense.

10. My colleagues were informed by me that I would report the substance of our meeting and would request instructions.

11. A paraphrase has been repeated to the commander in chief.

12. It is suggested that the Department revert to the use of the . . . code if this does not compromise confidential codes. The Legation's messages on this subject may then be sent . . . via wireless.

MAYER

893.8007/33 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, December 6, 1927—3 p. m.

[Received December 6—7:55 a. m.]

1069. Legation's 1045 of November 29, noon.

1. It is stated by the Japanese Minister that his Government agrees to the arrangements as explained in the Legation's telegram mentioned above, paragraph 8, the last two sentences.

2. According to instructions received by the French Minister from his Government, he is authorized to join with his colleagues concerned in the proposed plan for dealing with the question of piracy.

MACMURRAY

893.8007/31 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, December 6, 1927—3 p. m.

402. Legation's 1045 of November 29, noon. Careful consideration has been given by the Department to the suggestions made by you but it cannot perceive how joint or identic notes can serve any good purpose. It is stated by you that the object of such a note would be to make the Kwangtung authorities understand clearly that the deplorable state of affairs will no longer be tolerated by the foreign nations concerned and that the latter will take steps for protecting their nationals if the Chinese fail in this regard to do their duty. As to the question of what the powers propose to do in case the Chinese fail, the only suggestion made is for continuous international naval patrol of Bias Bay, and the Department is in agreement with Admiral Bristol that participation by us in such action would place upon this Government responsibility for the acts of other nations without authority or power to control such action. Therefore, the Department is not prepared to authorize the Legation to join with other powers in an identic or joint note to Kwangtung authorities in regard to piracy.

Referring to your suggestion in paragraph 12 in regard to the use of code, the Department considers that you should continue to use the confidential ciphers and codes for transmitting messages of this nature. No confidential standing whatever is now attached to the . . . code.

KELLOGG

893.8007/37 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 16, 1927—8 p. m.

[Received December 16—8:30 p. m.⁷⁰]

1106. Legation's Number 1045, November 29, noon.

1. Following from Canton:

"December 16, noon. In reply to your telegram November 10, noon.⁷¹ Believe that the present moment is inauspicious time to present either joint or identic note on the subject of piracy. Present Cantonese military coterie in order to clear Kwangtung of Kwangsi troops are enlisting support of both bandits and pirates. I am convinced and such is testimony of many Chinese that prominent Cantonese general in this group is leader and under-cover man for various bands operating in the vicinity of Canton. Recent looted American cargo pirated within ten miles of Canton was sold in open market and also names of shops dealing in this pirated cargo were given to

⁷⁰ Telegram in two sections.⁷¹ Not found in Department files.

Chinese authorities; no action was taken. Li Chai-sum⁷² just previous to departure attempted without success to transfer this general to another theatre of operations.

Also present leaders were former Reds and within limits they are curbing radical laborers and showing a more friendly feeling towards foreigners. This is being done partly under the influence of the Foreign Commissioner Chu Chao-hsin, Chinese former representative at Geneva, who assumed the duties of office November 26th. If at the crisis of Cantonese attempt to clear the Province of Kwangsi troops the powers took action of the nature suggested, it might drive them towards the Russians again or have antiforeign repercussions.

Believe that offer of powers to cooperate in suppression of piracy would be ineffectual since British have not attained any success by similar offers in the past.

Another difficulty is that the Cantonese authorities at Canton may not exercise effective control over particular district in which any one band operates, the members of which may be working in collusion with local military forces hostile to political group in Canton.

Both Department and commander in chief appear to be under misapprehension regarding piracies of American ships in Kwangtung waters. Since July 1926 five Standard Oil Company boats have been pirated. Total losses amount to \$53,000 Hong Kong currency. Three of these have occurred since August 1927 up shallow creeks where present Navy boats or those under construction cannot penetrate. All these five piracies occurred since practice of convoy was instituted and at times when company believed that [those?] districts in place [*particular?*] were safe and convoy was not needed. If company had made continuous shipments as in past years without convoy at all times it is doubtful if a single shipment would have gone through unmolested.

Believe the commander in chief is in error regarding connection between boycott and piracies.

Believe that when local situation is slightly stabilized an opportunity will offer itself to make representations to local authorities by joint or similar note in concert with other powers, but feel that subsequent action if necessary should be taken only as the necessity arose either singly or in cooperation with the British at the discretion of the commander in chief and patrol commander after consulting consulate and Chinese authorities.

Am convinced that naval authorities cannot deal effectually with situation unless suggestion contained at the bottom of page 3 of my despatch number 661 of October 31st [21st]⁷³ is carried out."

2. The suggestion of American consul at Canton referred to in last paragraph of his telegram is as follows:

"I am of the opinion that the only way in which to cope with this menace is the stationing of two well-armed launches to act as auxiliaries to whatever gunboat is stationed in the harbor at the time.

⁷² Also known as Li Chi-shen, military commander of Canton and supporter of Chiang Kai-shek in Kwangtung Province.

⁷³ Not printed.

These armed launches should be approximately 70 feet long by 16 feet broad, should have a horsepower of 200 to 250 and a speed of approximately 18 to 20 knots. They should be armed with 2 quick-firing guns and about 4 to 8 machine guns. An officer with 12 men would be a sufficient crew to man one of these auxiliary vessels. So far, the American naval authorities at Canton have been unable to follow these pirates up the shallow creeks and rivers where they usually take the pirated ship and cargo."

MACMURRAY

PROPOSALS FOR REVISION OF CHINESE TREATIES REGARDING
TARIFF CONTROL AND EXTRATERRITORIALITY

711.93/111

*House Concurrent Resolution 45, 69th Congress, 2d Session*⁷⁴

WHEREAS in the nine power treaty, drafted at the Washington Conference of 1921-22,⁷⁵ the United States has engaged itself "to respect the sovereignty, the independence, and the territorial and administrative integrity of China," and "to provide the fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable Government"; and

WHEREAS by virtue of this treaty, and in accordance with the traditional policy as embodied in various other formal declarations, it is appropriate that the United States should lend its aid and encouragement, in all proper ways, to nations or peoples in their efforts to establish and maintain popular forms of political rule; and

WHEREAS, therefore, the Chinese people are entitled to such aid and encouragement as the United States may properly give them in their efforts to place upon a firm and efficient basis the republican form of government which they adopted in 1912; and

⁷⁴ This resolution introduced by the Honorable Stephen G. Porter on January 4, 1927, was not acted upon. On January 24, 1927, Mr. Porter introduced H. Con. Res. 46, which in an amended form was passed by the House of Representatives on February 21. The resolution as passed contained the following preamble in place of the preamble of H. Con. Res. 45:

"Whereas the United States in its relations with China has always endeavored to act in a spirit of mutual fairness and equity and with due regard for the conditions prevailing from time to time in the two countries, and since the development of conditions in China makes it desirable that the United States at the present time, in accordance with its traditional policy, should take the initiative in bringing about a readjustment of its treaty relations with China:"

Except for slight changes, the body of H. Con. Res. 46 as passed by the House of Representatives was the same as that of H. Con. Res. 45 introduced by Mr. Porter on January 4. H. Con. Res. 46 was referred to the Senate Committee on Foreign Relations on Feb. 22, but no further action appears to have been taken upon it. See *Congressional Record*, 69th Cong., 2d sess., vol. 68, pt. 2, p. 2195; pt. 4, pp. 4386-4390, 4419.

⁷⁵ *Foreign Relations*, 1922, vol. I, p. 276.

WHEREAS this task of obtaining a republican form of government which will command the respect, the allegiance, and the obedience of the people of China, and thus secure the establishment of an effective, unified, civil control over all the Provinces of China, is rendered extraordinarily difficult by reason of the restraints upon the exercise of her sovereign powers provided for by treaties, to some of which the United States is a party; and

WHEREAS at the present time the United States of America has treaties with the Republic of China which the Chinese people assert deny to the Government of that country the right to fix its tariff policies in accordance with its revenue necessities or the needs of its economic and industrial life, and prevent it from exercising through its courts and laws that control over persons and property within its territories which is enjoyed by all other sovereign states within their several borders, and thus deprive it of that equality with other members of the family of nations to which it is justly entitled; and

WHEREAS there has arisen in China a nation-wide public opinion which insists that China has been and is treated in an unequal and nonreciprocal manner by foreign powers; and

WHEREAS it is highly unjust that a great and civilized people should be hindered by restraints imposed upon them in order to promote the interests of these powers; and

WHEREAS international good will and the preservation of international peace can be rendered secure only when nations deal justly with one another and upon a basis of equality of respect and mutuality of interest; and

WHEREAS in order to maintain peace and concord among the nations of the Pacific and among those having substantial interests therein, and to prevent the four hundred millions of the Chinese from abandoning their traditional doctrines of reason and justice for those of militarism, it is necessary that existing misunderstanding and grounds for grievance upon the part of the Chinese people should be removed; and

WHEREAS the United States has for many years taken the initiative in movements to secure just treatment for China, as was shown especially in establishing upon a firm and definite basis the principle of the open door in China; in remitting to China in 1908 the portion of the Boxer indemnities in excess of actual damages, and, in 1924, remitting the balance of the actual damages remaining due; and in the calling of the Washington Conference of 1921-22, which had as one of its primary purposes the lessening of the foreign restraints upon China's freedom of action, and the correction of violations of China's sovereign and territorial rights by various of the powers; and

WHEREAS general experience has demonstrated the impossibility of obtaining adequate concerted action upon the part of powers whose interests are not identical and whose policies diverge; and

WHEREAS with reference to the dealings of the foreign powers with China the attempt to maintain such concerted action has resulted in a situation which has become progressively worse, so that there is now indication that China, impatient at further delay, will exercise her sovereign right to denounce, by unilateral action, the treaties which, in her opinion, so grievously oppress her; and

WHEREAS it is in conformity with the traditional policy and practice of the United States of America to take action independent of that of other powers when it deems it just and expedient so to do, and the present situation in the Far East is one which renders it especially expedient that the United States of America should now free itself from entangling relations with other powers whose interests and policies are not identical with those of the United States, especially such as are concerned with the traffic in opium, the occupation of important and strategic ports of China, and exercise of political jurisdiction in connection with railway concessions, and, in general, the sanction of measures which infringe or tend to infringe upon China's sovereignty and administrative integrity; and

WHEREAS it is felt by many that the situation which now exists in and with regard to China is one which, if not promptly dealt with upon a basis of justice and equity, will endanger the peace of the world: Therefore be it

Resolved by the House of Representatives (the Senate concurring) That the President of the United States be, and he hereby is, respectfully requested forthwith to enter into negotiations with the duly accredited agents of the Government of China, authorized to speak for the entire people of China, with a view to the negotiation and the drafting of a treaty or of treaties between the United States of America and the Republic of China which shall take the place of the treaties now in force between the two countries, which provide for the exercise in China of American extraterritorial or jurisdictional rights or limit her full autonomy with reference to the levying of customs dues or other taxes, or of such other treaty provisions as may be found to be unequal or nonreciprocal in character, to the end that henceforth the treaty relations between the two countries shall be upon a wholly equal and reciprocal basis and will be such as will in no way offend the sovereign dignity of either of the parties or place obstacles in the way of realization by either of them of their several national aspirations or the maintenance by them of their several legitimate domestic policies.

893.00/8088

*The British Ambassador (Howard) to the Secretary of State*⁷⁶

No. 41

WASHINGTON, January 19, 1927.

SIR: I have the honour to inform you that I am in receipt of instructions from His Majesty's Government to communicate to you, for the confidential information of the United States Government, the following general summary of the terms which they are prepared to offer to the Chinese Nationalist Government at Hankow—as to any other Government in China—with a view to meeting Chinese aspirations in regard to treaty rights and privileges:—

1. His Majesty's Government are prepared to recognise modern courts as the proper courts for cases brought by British plaintiffs or complainants, without attendance of an assessor.

2. They will recognise the validity of a reasonable Chinese nationality law.

3. They will apply in British courts modern civil and commercial codes and subordinate legislation thereby placing British subjects in all matters relating to tariff taxation, and the obligation to conform to regulations, whether local or general, such as those relating to navigation, inland waters, etc., on an equal footing with the Chinese.

4. When a revised penal code is promulgated and applied, His Majesty's Government will also consider its application in British courts.

5. With regard to British concessions, (of which there are six), His Majesty's Government are prepared to enter into local arrangements in each case either for the amalgamation of the municipal council with the administration of adjacent foreign concessions under Chinese control, or for the amalgamation of police forces of such areas, or for the relinquishment of police control and the responsibility for maintaining order to fall upon the local Chinese authorities.

6. British Missionaries will no longer claim the right to purchase land in the interior. Native converts will look to the Chinese Constitution and not to treaties for their protection, and missionary educational and medical institutions will conform to Chinese laws and regulations applying to similar Chinese institutions.

7. His Majesty's Government will agree to any reasonable arrangement in regard to customs revenues such as the progressive relinquishment of the control of customs revenues as and when secured obligations are extinguished.

In bringing the foregoing summary of terms to your notice, I am instructed to explain that the concessions set forth above are in the nature of a waiver of treaty rights which His Majesty's Government have it in their power to make at any time and without prior negoti-

⁷⁶ Copy transmitted to the Minister in China in the Department's telegram No. 17, Jan. 20 (not printed).

ation of a treaty. His Majesty's Government consider that these proposals afford a basis for a reasonable settlement, and would be prepared to carry them out in return for a settlement of recent events at Hankow and Kiukiang and ample assurances for the future, with special reference to the present situation at Shanghai. If, however, notwithstanding this generous offer on the part of His Majesty's Government, the Nationalist Government endeavour to force their hands by the threat of mob violence or armed force, His Majesty's Government will take such measures as they think necessary. Indeed, His Majesty's Government are now taking the necessary steps for the despatch to Shanghai of such military and naval reinforcements as may be required for the protection and defense of their interests in the international settlement at that port.

I have [etc.]

ESME HOWARD

893.00/8105: Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, January 24, 1927—noon.

[Received January 24—6:17 a. m.]

64. 1. Following from American consul general, Hankow:

"January 22, 3 p. m. British banks, shipping companies and firms will reopen Monday. This should materially relieve the very tense situation that has prevailed for nearly three weeks. O'Malley⁷⁷ presented proposals to Ch'en⁷⁸ yesterday, the nature of which can be had from the British Minister."

2. Proposals referred to are doubtless consonant with the terms British Government are prepared to offer to Nationalists as described in British Ambassador's note of January 19 (see Department's 17, January 20, 4 p. m.⁷⁹)

3. As soon as British Minister is directly informed by O'Malley that the latter has presented proposals to Ch'en he intends to deal similarly with Chang Tso-lin regime⁸⁰ as regards Tientsin British Concession.

MAYER

⁷⁷ Owen St. Clair O'Malley, acting counselor of the British Legation at Peking, negotiating agreements with the Nationalist authorities for the future administration of British Concessions at Hankow and Kiukiang, January and February 1927.

⁷⁸ Eugene Ch'en, Minister for Foreign Affairs in the Nationalist Government at Hankow.

⁷⁹ See footnote 76, p. 344.

⁸⁰ The Government at Peking.

893.00/8138 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, January 24, 1927—10 p. m.

[Received January 27—10:30 a. m.⁸¹]

72. Following from Hankow:

"Undated, filed January 23, 3 p. m. Minister of Foreign Affairs issued the following statement today:⁸²

"The leading assumption in all British and other foreign declarations of policy regarding China is that she is unable to look after her own interest[s] and that, in pursuance of the spirit of the Washington Conference, Great Britain and other powers must enter into self-denying ordinances respecting her in order to safeguard her integrity and independence, promote her political and economic development and the rehabilitation of her finances. This is not true of Nationalist China. Today this new China is strong and is conscious of its power and its ability by economic means to enforce its will on Chinese soil against any power. The question then is not what Great Britain and [the] other powers may wish to grant to China to meet the legitimate aspirations of the Chinese nation but what Nationalist China may justly grant to Great Britain and other powers, whose regime of international [control is now definitely sharing the fate of all historical] systems of political subjection. These words are used advisedly. The system of international control in China known as foreign imperialism has necessarily involved such a limitation of Chinese sovereignty, economic, judicial and political, that anything like real and full independence has not been enjoyed by China since England imposed on her the treaty of Nanking⁸³ which inaugurated the systems. In [a] very real sense therefore it is historically true to state that the British, having defeated China in the Opium War[s], deprived her of independence. Englishmen of the present generation born since that dark transaction [may not remember]; but Nationalist China with the old [iron] of defeat in her flesh must need remember. This is the Nationalistic view and unless it is grasped one of the dominant aims of the Chinese Nationalism will not be understood. What is this dominant aim? It is the recovery of Chin[a's] full independence which was lost as a result of defeat at the [hands] of the British. And until this act of historical justice is done there can be no real peace between China Nationalism and British Imperialism. [Before the emergence] of Chinese Nationalism in its revolutionary phase there was, it [is] true, [a] state of seeming peace between [the Chinese] and the British; but it was no more real and enduring than similar phenomena of peace that one finds recorded on every page of the history of conquest. A nation that is not dying can never be at peace with its conquerors. It will strike at the selected moment. The selected moment of Chinese Nationalism came when

⁸¹ Telegram in two sections.⁸² Garbled text corrected on basis of statement printed in the *China Year Book*, 1928, p. 762.⁸³ Signed Aug. 29, 1842; *British and Foreign State Papers*, vol. xxx, p. 389.

British-controlled rifles were ordered to shoot to kill Chinese students on China soil on May 30, 1925, at Shanghai;⁸⁴ and the movement of liberation found its instrument of power when, following the further killing of Chinese students [and] others by foreign machine guns on June 23rd off the [Shameen] at Canton,⁸⁵ the economic weapon was forced [*forged*] by Chinese Nationalism in [the South]. The struggle has spread and continued to spread and continues to spread; and because it is waged by an awakened nation fighting to be free it will not cease until [complete] independence is won. Great Britain or any other [power] has nothing to fear when China, under [Nationalist] leadership, recovers her lost independence. It is not to revert to the methods of barbarism of a Chang Tsung-chang or to reintroduce the feudalism of a Chang Tso-lin or to maintain and perpetuate the mediaevalism of the [mandarinate] in Peking that [Nationalist] China wants independence. This is desired and is being [fought] for because a modern state must be set up in China if the Chinese people are not to suffer the fate of a dead nation. But [if] such state [is] to be built by Chinese hands, then China must be mistress of her own household. This means independence. A modern state in China implies the [existence of] a Government which will rule, administer, and tax China as the common possession of the Chinese people and not as the private property of some feudal or mediaeval [gang] in control of Peking; and generally [it connotes an ideology] and technique that will cause antisocial characters like Chang Tso-lin and his allies to be thought of [and] dealt with [in] terms of the conception of outlawry as defined in the books, and [will] subject individual British and other alien adventurers who aid and abet them to plunder China to punishment as international brigands. The Government whose existence is implied by a modern state in China will necessarily, since it will be a modern government, work [out] specific foreign issues involved in the recovery of China's full independence along lines [which], while asserting and informing [*enforcing*] Chinese authority and preserving vital Nationalist interests, will not [disregard] consideration[s] of right and justice due to foreign nationals. But [in] this connection a great, impressive fact must be grasped. Today the effective protection of foreign lives and property in China does not [stand] and cannot longer rest on foreign bayonets and foreign gunboats because the arm of China Nationalism—the economic weapon—is more [puissant] than any [engine] of warfare that the foreigners can devise. And the British in particular must now understand that the forces of the present revolutionary situation are [handing] over the protection of foreign life and property [to a] Government that derives its authority from [those] in whose hands [is centered] the power that can paralyze the economic life of foreign nationals in China. It is however the view of the Nationalist Government that the liberation of China from the yoke of foreign imperialism need not necessarily involve any armed conflict between Chinese [Nationalism] and foreign powers, for the reason that the Nationalist Government would

⁸⁴ See *Foreign Relations*, 1925, vol. 1, pp. 647 ff.

⁸⁵ See *ibid.*, pp. 749 ff.

prefer to have all questions outstanding between Nationalist China and the foreign powers settled by negotiations and agreement. It is in this sense that the Minister for Foreign Affairs indicated the policy of the Nationalist Government to the American Minister when the latter visited Canton in the autumn;⁸⁶ and the same policy has again been indicated to the new British Minister, to [the] Japanese representative and to a representative of the American Minister. In order to prove that this is no idle [statement] of policy the Nationalist Government hereby declares their readiness to negotiate separately with any of the powers for the settlement of treaty and other cognate questions on the basis of economic equality and mutual respect for each other's [political] and territorial sovereignty. Despite misleading reports, the new *status quo* in the Hankow British Concession [has] involved no real departure from the [foregoing statement] of policy; and the Nationalist Government has categorically to repudiate the imputation that events leading to the new *status quo*—including the bayoneting of several Chinese, two of whom seriously—were deliberately planned and staged in order to bring about the [violent] and forcible [capture] of the Concession. The extension of Nationalist control to the Concession has been due less to the entry of armed Chinese forces (which took place with British consent) than to the landing in the first instance of armed British marines in circumstances [inevitably] calculated to provoke, and which did provoke, a [bloody] clash with [a] patriotic Chinese crowd and to the abdication by the British Municipal Council of its powers (which, together with the unnecessary evacuation of British women and children, was the result of too lurid an interpretation of the situation by the British) with the consequent establishment of the present Nationalist commission for the administration of the Concessions. Finally the Nationalist Government have to emphasize [that] the British trade and other interest[s] lie preponderantly along the Yangtze and in South China, which are all subject to the Nationalist Government; almost the whole of China south of the Yangtze [together] with large areas in the north, including all the territory under the Kuominchun, is under Nationalist control; and if a plebiscite were taken in the territory under Chang Tso-lin, Chang Tsung-ch'ang, and Sun Ch'uan-fang, an overwhelming vote would be cast in favor of the Nationalist Government. But the [most] decisive argument of all is [that] the Nationalist Government represents the real spirit of awakened China and is [the] instrument of power and achievement of a revolutionary movement with which foreign imperialism must come to terms. No power incurs any risk in coming to terms with [a] Government which derives its authority and sanction [from] and is supported by Chinese Nationalism because Chinese Nationalism is indisputable and is an [indestructible] and invincible force.'

Lockhart"
MAYER

⁸⁶ See telegram No. 449, Oct. 3, 1926, from the Chargé in China, *Foreign Relations*, 1926, vol. I, p. 866.

893.00/8132 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, January 25, 1927—8 p. m.

[Received January 25—3:55 p. m.]

79. 1. Following from American consul general at Hankow:

"January 24, 6 p. m. Eugene Ch'en called me to his office late yesterday afternoon and handed me the statement which I telegraphed last night.⁸⁷

Ch'en is greatly excited over the Belgian treaty negotiations and says that if the Belgians enter in[to] a new treaty with the Chinese regime at Peking, Belgians in the territory controlled by the Nationalists will find themselves in great disfavor and perhaps the object of retaliatory measures. He is even more concerned however lest the American Government should suddenly decide to negotiate a new treaty with China possibly as an outgrowth of the Porter resolution⁸⁸ and he hinted that your return to Peking might have some connection with such an undertaking. He expressed the view quite emphatically that negotiations for new treaties between the foreign powers and the Chinese authorities at Peking at this juncture when the wave of nationalism gives promise of shortly spreading over the whole country, would be particularly inadvisable and would adversely affect the interests of the foreign perils [*sic*] and the Chinese alike. His view is that if the powers do not yet feel warranted in dealing with Nationalist Government in the matter of new treaties they should at least hold aloof for the present and await developments. He emphasized, as he has once before, that he deplored any action which might lead to a division of the country—that is, a Northern and Southern government—and stated that such negotiations would tend to bring that about; that in any event new treaties negotiated now with the Peking regime would not be recognized by the Nationalists either here or in case the Cantonese should extend their power to Peking in due course.

As between the new treaty negotiations and the two and a half percent surtaxes soon to be levied by the Northern Government to which Ch'en is vigorously and persistently opposed, the Minister for Foreign Affairs is greatly disturbed, but seems to find satisfaction in the fact that Japan appears friendly to Nationalist aspirations. I venture to suggest that Saburi did some very effective work here from the point of view of cultivating a good understanding."

2. Comment will follow in connection with reply to Department's 22, January 24, 11 a. m.,⁸⁹ just to hand, which I have to despatch tomorrow morning (January 26th).⁸⁹

MAYER

⁸⁷ *Supra.*⁸⁸ *Ante*, p. 341.⁸⁹ Not printed.

711.93/116 a : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, January 25, 1927—8 p. m.

28. The following is the text of a statement regarding this Government's policy concerning China which will be given to the Press for publication in those papers appearing after 12:01 A. M., eastern standard time, Thursday 27th instant.

You may release on the equivalent of this hour. Repeat to Shanghai and Hankow.

At this time, when there is so much discussion of the Chinese situation, I deem it my duty to state clearly the position of the Department of State on the questions of tariff autonomy and the relinquishment of extraterritorial rights.

The United States has always desired the unity, the independence and prosperity of the Chinese nation. It has desired that tariff control and extraterritoriality provided by our treaties with China should as early as possible be released. It was with that in view that the United States made the declaration in relation to the relinquishment of extraterritoriality in the Treaty of 1903⁹⁰ and also entered into the Treaty of Washington of February 6, 1922, providing for a Tariff Conference to be held within three months after the coming into force of the Treaty.⁹¹

The United States is now and has been, ever since the negotiation of the Washington Treaty, prepared to enter into negotiations with any Government of China or delegates who can represent or speak for China not only for the putting into force of the surtaxes of the Washington Treaty but entirely releasing tariff control and restoring complete tariff autonomy to China.

The United States would expect, however, that it be granted most favored nation treatment and that there should be no discrimination against the United States and its citizens in customs duties, or taxes, in favor of the citizens of other nations or discrimination by grants of special privileges and that the open door with equal opportunity for trade in China shall be maintained; and further that China should afford every protection to American citizens, to their property and rights.

The United States is prepared to put into force the recommendations of the Extraterritoriality Commission⁹² which can be put into force without a treaty at once and to negotiate the release of extraterritorial rights as soon as China is prepared to provide protection by law and through her courts to American citizens, their rights and property.

The willingness of the United States to deal with China in the most liberal spirit will be borne out by a brief history of the events since making the Washington Treaty. That Treaty was ratified by the last one of the Signatory Powers on July 7, 1925, and the ex-

⁹⁰ Art. xv, *Foreign Relations*, 1903, pp. 91, 98.

⁹¹ Art. II, *ibid.*, 1922, vol. I, pp. 282, 285.

⁹² See telegram No. 412, Sept. 17, 1926, from the Chargé in China, *Foreign Relations*, 1926, vol. I, p. 979.

change of ratifications took place in Washington on August 6, 1925. Before the treaties finally went into effect and on June 24, 1925, the Chinese Government addressed identic notes to the Signatory Powers⁹³ asking for the revision of existing treaties. On the first of July 1925, I sent instructions to our Minister in Peking,⁹⁴ which instructions I also communicated to all the other Governments, urging that this should be made the occasion of evidencing to the Chinese our willingness to consider the question of treaty revision. I urged that the Powers expedite preparations for the holding of the Special Conference regarding the Chinese customs tariff and stated that the United States believed that this special tariff conference should be requested, after accomplishing the work required by the Treaty to make concrete recommendations upon which a program for granting complete tariff autonomy might be worked out. The Delegates of the United States were given full powers to negotiate a new treaty recognizing China's tariff autonomy. At the same time, I urged the appointment of the Commission to investigate extraterritoriality, with the understanding that the Commission should be authorized to include in its report recommendations for the gradual relinquishment of extraterritorial rights. Prior to this, the Chinese Government urged the United States to use its influence with the interested Powers to hasten the calling of the Conference on Tariff Matters and the appointment of the Extraterritorial Commission and for each Government to grant to its representatives the broad power to consider the whole subject of the revision of the treaties and to make recommendations upon the subject of the abolition of extraterritorial rights. This was in harmony with the views of the United States. Accordingly, on September 4, 1925, the United States and each of the other Powers having tariff treaties with China evidenced their intention to appoint their delegates to the Tariff Conference. By a note which has been published, the Powers informed China⁹⁵ of their willingness to consider and discuss any reasonable proposal that might be made by the Chinese Government on the revision of the treaties on the subject of the tariff and also announced their intention of appointing their representatives to the Extraterritorial Commission for the purpose of considering the whole subject of extraterritorial rights and authorizing them to make recommendations for the purpose of enabling the governments concerned to consider what, if any, steps might be taken with a view to the relinquishment of extraterritorial rights. Delegates were promptly appointed and the Chinese Tariff Conference met on October 26, 1925.⁹⁶

Shortly after the opening of the Conference and on November 3, 1925, the American Delegation proposed that the Conference at once authorize the levying of a surtax of two and one-half per cent on necessities, and, as soon as the requisite schedules could be prepared, authorize the levying of a surtax of up to five per cent on luxuries, as provided for by the Washington Treaty. Our delegates furthermore announced that the Government of the United States was pre-

⁹³ *Foreign Relations*, 1925, vol. I, p. 763.

⁹⁴ *Ibid.*, p. 767.

⁹⁵ See note of Sept. 4, 1925, from the American Minister to the Chinese Minister for Foreign Affairs, *ibid.*, p. 831.

⁹⁶ See *ibid.*, pp. 833 ff. and 1926, vol. I, pp. 743 ff.

pared to proceed at once with the negotiation of such an agreement or agreements as might be necessary for making effective other provisions of the Washington Treaty of February 6, 1922. They affirmed the principle of respect for China's tariff autonomy and announced that they were prepared forthwith to negotiate a new treaty which would give effect to that principle and which should make provision for the abolition of likin, for the removal of tariff restrictions contained in existing treaties and for the putting into effect of the Chinese National Tariff Law. On November 19, 1925, the Committee on Provisional Measures of the Conference, Chinese delegates participating, unanimously adopted the following resolution:

"The Delegates of the Powers assembled at this Conference resolve to adopt the following proposed article relating to tariff autonomy with a view to incorporating it, together with other matters, to be hereafter agreed upon, in a treaty which is to be signed at this Conference.

"The Contracting Powers other than China hereby recognize China's right to enjoy tariff autonomy; agree to remove the tariff restrictions which are contained in existing treaties between themselves respectively and China; and consent to the going into effect of the Chinese National Tariff Law on January 1st, 1929.

"The Government of the Republic of China declares that likin shall be abolished simultaneously with the enforcement of the Chinese National Tariff Law; and further declares that the abolition of likin shall be effectively carried out by the First Day of the First Month of the Eighteenth Year of the Republic of China (January 1st, 1929)."

Continuously from the beginning of the Conference, our delegates and technical advisers collaborated with the delegates and technical advisers of the other Powers, including China, in an effort to carry out this plan,—viz. to put into effect the surtaxes provided for in the Washington Treaty, and to provide for additional tariff adequate for all of China's needs until tariff autonomy should go into effect. Until about the middle of April 1926, there was every prospect for the successful termination of the Conference to the satisfaction of the Chinese and the other Powers. About that time the Government which represented China at the Conference was forced out of power. The delegates of the United States and the other Powers, however, remained in China in the hope of continuing the negotiations and on July 3, 1926, made a declaration as follows:

"The Delegates of the foreign Powers to the Chinese Customs Tariff Conference met at the Netherlands Legation this morning. They expressed the unanimous and earnest desire to proceed with the work of the Conference at the earliest possible moment when the Delegates of the Chinese Government are in a position to resume discussion with the foreign Delegates of the problems before the Conference."

The Government of the United States was ready then and is ready now to continue the negotiations on the entire subject of the tariff and extraterritoriality or to take up negotiations on behalf of the United States alone. The only question is with whom it shall negotiate. As I have said heretofore, if China can agree upon the appointment of delegates representing the authorities or the people of the country, we are prepared to negotiate such a treaty. However, existing treaties which were ratified by the Senate of the United States cannot be abrogated by the President but must be superseded by new treaties negotiated with somebody representing China and subsequently ratified by the Senate of the United States.

The Government of the United States has watched with sympathetic interest the nationalistic awakening of China and welcomes every advance made by the Chinese people toward reorganizing their system of Government.

During the difficult years since the establishment of the new regime in 1912, the Government of the United States has endeavored in every way to maintain an attitude of the most careful and strict neutrality as among the several factions that have disputed with one another for control in China. The Government of the United States expects, however, that the people of China and their leaders will recognize the right of American citizens in China to protection for life and property during the period of conflict for which they are not responsible. In the event that the Chinese Authorities are unable to afford such protection, it is of course the fundamental duty of the United States to protect the lives and property of its citizens. It is with the possible necessity for this in view that American naval forces are now in Chinese waters. This Government wishes to deal with China in a most liberal spirit. It holds no concessions in China and has never manifested any imperialistic attitude toward that country. It desires, however, that its citizens be given equal opportunity with the citizens of the other Powers to reside in China and to pursue their legitimate occupations without special privileges, monopolies or spheres of special interest or influence.

KELLOGG

711.93/130

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Johnson)*

[WASHINGTON,] January 27, 1927.

The Chinese Minister⁹⁷ called upon the Secretary this morning and reference was made to the statement concerning the policy of the United States towards China which was made public this morning.⁹⁸ The Secretary asked the Minister if he had any comment to make and the Minister stated that he wanted to speak very frankly; that he felt that the statement was not very clear as to what the United States was prepared to do. The Secretary stated that he did not know how he could be more definite than he had been; that if the Minister would read the statement he would see he had said that the United States "is now and has been, ever since the negotiation of the Washington Treaty, prepared to enter into negotiations with any Government of China or delegates who can represent or speak for China not only for the putting into force of the surtaxes of the Washington Treaty but entirely releasing tariff control and restoring complete tariff autonomy to China;" and that the United States Government was prepared to negotiate "the release of extraterritorial rights as soon

⁹⁷ Sao-Ke Alfred Sze.

⁹⁸ See telegram No. 28, Jan. 25, to the Chargé in China, *supra*.

as China is prepared to provide protection by law and through her courts to American citizens, their rights and property." The Minister stated that the Chinese were anxious to know the basis upon which the United States would be willing to negotiate on these matters, whether on the old basis of the Tariff Conference and the Washington Conference or whether on a basis of equality and reciprocity. The Secretary stated that we were willing to go into the whole question of tariff and extraterritoriality and that we had stated we were willing to do this now. The Minister stated that he thought the United States ought to name its delegation as the Chinese would be very much interested in the personnel of the delegation. The Secretary stated that he had not come to that question yet; that the question of the delegation was a very simple one and that it would be sufficient to wait until the Chinese were ready to negotiate before going into that question. The Minister stated that he understood the Secretary was not willing to negotiate with the Peking Government in compliance with the appeal of Wellington Koo, which he had communicated orally a week ago.⁹⁹ The Secretary stated that he wanted to consider that question; that we had said we would be ready to negotiate with any government of China or delegates who can represent or speak for China. The Minister stated that we were not willing to negotiate with Eugene Chen. The Secretary stated that he did not understand that Eugene Chen or Wellington Koo at the present time could singly claim to represent the whole of China. The Secretary stated that he had understood the Minister to say that he felt sure he could obtain credentials from both sides for the conduct of negotiations with the Government of the United States or that both sides could agree upon representatives. The Minister stated that that was true on December 7; that he did not believe it was true today.

The Minister stated that he was very anxious to know what the intentions of the United States were with regard to the sending of its naval forces to Chinese waters; that he had understood from the Secretary that we were not sending any additional forces but that the newspapers had announced that additional marines were being sent. The Minister wanted to know whether he could see the Secretary of the Navy and discuss this matter with him. The Secretary stated that he saw no necessity for seeing the Secretary of the Navy; that we had not increased our naval forces in Chinese waters, but that we, of course, had a number of ships at Shanghai. The Secretary stated that he would be glad to make a little memorandum of our naval forces in Chinese waters for the Minister.

N[ELSON] T. J[OHNSON]

⁹⁹ See last two paragraphs of the memorandum of January 24 by the Chief of the Division of Far Eastern affairs, p. 52.

893.00/8285

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Johnson)*

WASHINGTON, January 28, 1927.

MR. SECRETARY: I went to see the British Ambassador as you suggested with reference to the Shanghai situation. I told him that, in conversation with you, you had been led to understand that the British Government would not be averse to discussions for a change in the status of the International Settlement at Shanghai. I said to him that we were contemplating sending an instruction to our Minister at Peking, directing him to see what could be done toward taking the question of the neutrality of the area of the International Settlement at Shanghai up with the contending factions concerned. The Ambassador stated that he thought this would be a good thing to do. I said that I felt certain that to make such advances would bring a request for our attitude with regard to the future status of the Settlement and I wondered whether the British Government would be willing that we should say that we were prepared to negotiate for a change in the status of the Settlement. The Ambassador stated that he was not instructed on the matter and he did not think the British Government was prepared to go that far. He said, after all, the Settlement was not American. I said no, that three Powers were immediately concerned—the Japanese, British and ourselves. He said, of course, there were other Powers involved. I assented to this. He stated that he thought that we could not go further than to express our willingness to consult the Powers with a view to discovering what their intentions would be in the matter.

N[ELSON] T. J[OHNSON]

711.93/121: Telegram

The Ambassador in Japan (MacVeagh) to the Secretary of State

TOKYO, January 29, 1927—4 p. m.

[Received January 29—9:25 a. m.]

11. Secretary's statement on Chinese policy well received here by Japanese press which feels that in general it coincides with Japanese Government's policy. Although I have not discussed statement with Foreign Office, I understand from colleague who has talked with Vice Minister that they are pleased with stand we have taken.

Full text not being available here I have asked Peking to forward copy.

MACVEAGH

893.00/8165 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 31, 1927—3 p. m.

[Received January 31—7:12 a. m.]

98. Legation's 64, January 24, noon.

1. I am informed that British Minister communicated on January 28th to Wellington Koo, *mutatis mutandis*, the offer which British Government are prepared to make with a view to meeting Chinese aspirations in reference to treaty rights and privileges.

2. O'Malley has made similar proposals to Ch'en at Hankow.

MACMURRAY

711.93/125 : Telegram

The Consul General at Shanghai (Gauss) to the Secretary of State

SHANGHAI, January 31, 1927—5 p. m.

[Received January 31—7:08 a. m.]

Following from American Chamber of Commerce:

"American Chamber of Commerce expresses endorsements statement Secretary of State on China and appreciation of assurances protection of American life and property."

GAUSS

893.00/8169

Memorandum by the Secretary of State

WASHINGTON, January 31, 1927.

The Japanese Ambassador¹ called to see me and presented a memorandum as follows:

"The recent statement made by the Secretary of State on the Chinese situation does not only fall in line with our policy in China, but also coincides in some respects with the new British policy toward that country. Steady, sound and timely, that statement is considered to bring about a favorable result in harmonizing the Powers' policy in China. I am convinced that, should the United States and Japan be able to maintain conjointly a sound attitude toward China by frankly exchanging views, from time to time, it would go a long way towards the amelioration of the general situation in that country."

He also said that he thought it would be wise for the Japanese and ourselves to exchange views on the Chinese question as often as possible; that he understood the Ministers at Peking had had a meeting to discuss the proposition of implementing the surtaxes; that the Netherlands Minister wishes to disconnect them from the Wash-

¹ Tsuneo Matsudaira.

ington Treaty; but there were so many views that the Ministers said they would get instructions from their governments and they had taken no action.

I read him then the last clause of our telegram to MacMurray, No. 35, January 31st,² and it was his personal view that it was a good thing to do, that it was very timely. He said his Government was considering a similar plan having instructed their Consuls and Minister in Peking to report upon its feasibility. However, he said he thought we ought to act jointly.

893.00/8181: Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, February 3, 1927—7 p. m.

[Received February 3—3:20 p. m.]

107. Your 42, February 2, 2 p. m.³

1. I am informed by British Minister that O'Malley's negotiations at Hankow for settlement of the Kiukiang and Hankow questions took place on the lines indicated by the memorandum of the British Ambassador to you January 19, which was quoted in your number 17 of January 20,⁴ except that there was no broaching of the proposal in regard to customs control which was stated in the seventh paragraph thereof. As my telegram 98 of January 31 reported, on January 28 the same proposals were communicated to the Chinese Foreign Office. Formulation of the negotiations in a treaty has not been contemplated in either case. The British Government is not prepared to give recognition to either the Southern or Northern Administrations as the Chinese Government. The Southerners have acquiesced in this by refraining from pressing any further for recognition at present. Therefore the Hankow negotiations merely contemplated a local understanding with the Nationalist Administration regarding matters within that area where they actually control.

2. I am further informed by the British Minister that on January 29th the negotiations at Hankow had reached a point where the documents were prepared for signature. Ch'en insisted that certain minor modifications be made, to which O'Malley consented. The next day, the same thing happened. On January 31, when the hour for signing the revised documents had already been set, Ch'en sent word he was unable to sign but that he would meet O'Malley

² *Ante*, p. 65.

³ Not printed.

⁴ See footnote 76, p. 344.

the next day. At that time Ch'en assumed the position that under such duress upon the Nationalist Administration as the British were applying by sending troops to China, the Nationalist Administration could not make any agreement. He was unmoved by any consideration of the troops' having a purely defensive purpose. He then read the statement, and later gave it to the press, the text of which as received today through Reuters I have sent to you via radio.

3. It appears from O'Malley's reports that the negotiations have been interfered with repeatedly and finally brought to suspension by intrigues by the Soviet advisers and their extremist supporters in the Kuomintang. These are actively in opposition to any agreement by which an end would be put to the anti-British movement and presumably other antiforeign movements.

MACMURRAY

893.00/8350

*The British Embassy to the Department of State*⁶

MEMORANDUM

Sir Esme Howard did not fail to communicate to His Majesty's Government an account of his conversations with the Secretary of State on January 27th and 29th last on the subject of China⁷ as well as an account of the conversation with the Chinese Minister on January 28th.⁸ Sir Esme Howard has now been instructed to inform Mr. Kellogg that any action which the United States Government may take to get into touch with and bring together the various Chinese leaders with a view to obtaining from them assurances as regards Shanghai and the protection of foreigners elsewhere in China will have the cordial support of His Majesty's Government. It is the paramount duty of the latter to protect the lives of British nationals in China and the naval and military forces now on their way to Shanghai are being despatched with no other object in view. At the same time His Majesty's Government would greatly prefer to avoid the movement of troops for the purpose of protecting their nationals if that object could be effected by any other means.

His Majesty's Government have not only expressed their willingness to satisfy Chinese national aspirations in regard to a revision of treaties but are now actually implementing this engagement in the

⁶ Copy transmitted to the Minister in China in the Department's instruction No. 447, Mar. 3, 1927 (not printed).

⁷ See memoranda of January 27 and January 29 by the Secretary of State, pp. 58 and 63.

⁸ See note No. 61, Jan. 28, from the British Ambassador, p. 62.

terms of their offer as set forth in Sir Esme Howard's note No. 41 of January 19th last. His Majesty's Government have been initiating separate discussions with the Chinese authorities at Peking and Hankow with a view to effecting by unilateral action the desired abolition and modification of the special rights and privileges hitherto enjoyed by British subjects in common with other foreign nationals in China. His Majesty's Government have been compelled to adopt this method only because there is at present no government representing China as a whole and they would, therefore, heartily welcome any success which might attend the efforts of the United States Government to bring together the various Chinese leaders and so render possible the formal negotiations for treaty revision.

Sir Esme Howard proposes to inform the Chinese Minister in Washington that if the latter can bring any influence to bear upon the leaders of the rival factions both in the North and South, with a view to inducing them to meet the offer of His Majesty's Government in the friendly and conciliatory spirit in which it is made, such action would be welcome.

WASHINGTON, *February 4, 1927.*

893.00/8350

*Memorandum by the Acting Secretary of State**

WASHINGTON, *February 5, 1927.*

The British Ambassador came in to leave with me his Memorandum of February 4 conveying the attitude of his Government towards the conversations which he had had with the Secretary on January 27 and 29. The Ambassador said that his Government was cordially in sympathy with any action which we might take to get into touch with and bring together the various Chinese leaders with a view to obtaining from them assurances with regard to Shanghai and the protection of foreigners elsewhere in China. The Ambassador further told me of two talks which he had had with the Chinese Minister on January 29 and this morning. In the first talk Mr. Sze had said that no negotiations would be possible until the western Powers agreed to the abrogation of all rights and privileges under the old treaties and to start the negotiations with a clean slate as well as the withdrawal of all British troops from China. In his conversation today the Ambassador had pointed out to Mr. Sze that when treaties existed their provisions could only be altered by the negotiation of new agreements; that under the rights and privileges set up by

* Copy transmitted to the Minister in China in the Department's instruction No. 447, Mar. 3, 1927 (not printed).

former treaties during the last several generations vested interests had been acquired in China and that it was obviously impossible to consider giving up all rights and privileges without some assurance that these vested interests would be protected. As regards the withdrawal of British troops from China, the Ambassador said to the Minister that this could obviously not take place until adequate assurances were given that British nationals and property would be protected. The Ambassador told me that while in his first interview he thought the Chinese Minister had been more intransigent even than in his talk with Mr. Kellogg, nevertheless in the second interview the Minister appeared to acknowledge that there was something in the British contention. The Minister had also told the Ambassador that he was in touch with both Eugene Chen and Wellington Koo. The Ambassador said he was little aware of how much influence Mr. Sze carried at home. He said that in speaking of the contending factions in China it was difficult to know how many there were as they appeared to be springing up like rabbits in the springtime.

The Ambassador referred to the article in the *Washington Post* yesterday in which Albert Fox stated that Minister Sze had protested to me against the movements of American warships in Far Eastern waters. Mr. Sze had told the Ambassador that the article was not correct as he had only made inquiry of me and had not conveyed a protest.

J[OSEPH] C. G[REW]

711.93/127: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 10, 1927—noon.

[Received February 10—9 a. m.]

128. Your 28, January 25, 8 a. m. [*p. m.*]

1. Following is the gist of impressions made upon foreign and Chinese opinion in China by the American Government's statement of policy concerning China as reported by following consulates:

2. Shanghai: Chinese reaction appears to be that statement presents nothing new or concrete except that America is willing to negotiate alone if necessary and apparently does not associate itself with the British military threat to China. Foreign comment generally is that statement presents nothing new permanently.

3. Hankow: Statement did not evoke wide comment. General feeling among Americans is that the statement is clear and opportune and will serve useful purpose in again reminding the Chinese people of the desire of America to help them out of their difficulties. The Chinese press has devoted little space to it.

4. Nanking: Americans in general approve, although businessmen view any yielding with great apprehension. Chinese mildly approve but are too anxious concerning immediate domestic dangers to give the announcement much attention.

5. Mukden: Statement apparently well received. Chinese acclaim it as an encouragement and as giving them new hope. Japanese journalists regard it as a clever and cunning statement. Other foreigners lukewarm.

6. Canton: No journalistic comment obtainable by reason of suspension of newspapers during the new year.

7. English language newspaper comment in this northern section may be summarized as follows: *North China Star* considers statement as reasonable and just. Secretary Kellogg offers China chance and the Chinese should grab it. Let's have "another Washington conference between China and the United States." *North China Standard* remarks that the principal thing about the statement is there is nothing new in it, and no offer made that the other powers have not previously tendered. *Far Eastern Times* statement, after a careful perusal of the statement, it fails to find anything extraordinary "since it is stated that the United States is prepared to negotiate new treaties with China to replace the old ones. We fail to understand why she does not automatically propose negotiations with our Government." *Peking and Tientsin Times* remarks that it says nothing—absolutely nothing—and is a prolix but common-sense exposé of the difficulties of the position in China. The statement is taken as an indication that the State Department does not intend to surrender vital American rights until it is satisfied that there is some competent authority to whom to surrender them. This paper is also gratified to find that in Great Britain and in Japan the statement appears to be regarded as supporting diametrically opposed policies of the British and Japanese Governments, respectively.

8. Thus far only one Peking Chinese newspaper has commented on the statement, *Chen Pao*, which characterizes the statement as one of empty words and searches in vain for any new ideas in the whole document.

9. No particular interest seems to have been aroused among such officials as I have seen with the exception of Kuomintang representative taking refuge in the Legation quarter, who while acknowledging it was intended as a friendly gesture, called it vague and contrasted it pointedly with the concreteness of the recent British proposals.

MACMURRAY

893.00/8238 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, February 12, 1927—4 p. m.

58. Following is substance of telegram received from Consulate at Geneva dated February 11, 1927:

A statement of British policy dealing with China was received by the Secretary General of League and circulated to all members February 11. The last paragraph read in part as follows:

"His Majesty's Government deeply regret that there does not appear to be any way in which the assistance of the League in the settlement of the difficulties in China can be sought at present. But if any opportunity should arise of invoking the good offices in the League His Majesty's Government will gladly avail themselves of it."

It is however considered possible that at the March session of the League the Chinese member of the Council or any member may bring up the matter for discussion under Article 11 of the Covenant.¹⁰

KELLOGG

711.93/131 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 15, 1927—11 a. m.

[Received February 15—6:42 a. m.]

140. My 128, February 10, noon. Following from American consul general at Canton:

"February 13, 4 p. m. Your January 31, 3 p. m. Department's declaration of policy concerning China has created little or no interest in Canton either amongst Chinese or foreigners. Declaration is criticised as containing nothing new except possibly offer to negotiate separately. Semiofficial *Canton Gazette* published complete text but without comment. Workers vernacular papers have merely referred to declaration without publishing it. Their criticism is that the note lacks sincerity because the United States could and should abandon all "unjust rights" under existing treaties instead of trying to hold on to them until new treaties can be negotiated.

2. Note suggesting neutralization of Shanghai area¹¹ seems to have created some resentment amongst officials on the ground that Shanghai is Chinese and not foreign territory.

3. Although I may be mistaken, I feel conscious of growing coldness on the part of local authorities for Americans. This is doubtless due to the final realization that the American Government is no more disposed than Great Britain to abandon extraterritoriality and also to the fact that American naval forces are assembling in Shanghai."

MACMURRAY

¹⁰ Malloy, *Treaties*, 1910-1923, vol. III, pp. 3336, 3339.

¹¹ See telegrams No. 31, Jan. 28, and No. 35, Jan. 31, to the Minister in China, pp. 59 and 65.

711.93/178

*Memorandum by Mr. J. V. A. MacMurray, the Minister to China*¹²

[WASHINGTON,] *October 21, 1927.*

With regard to the demand that the United States consent to a revision of the so-called "unequal treaties" with China, we have taken the logical position that we are prepared to negotiate with any group fairly representative of China.

Although this position is logical and perhaps inevitable, there is a tendency on the part of the Chinese to construe it as a tactical position for the purpose of delaying the issue indefinitely, inasmuch as there is no immediate prospect of the emergence of a governmental authority capable of assuming and fulfilling international obligations in behalf of China.

In order to meet a criticism which reflects upon the good faith of our policy, it may be possible for us to go rather more than half way, and to initiate an effort to find some mode of procedure by which at any rate a partial revision could be effected.

To this end, the Minister at Peking might be definitely instructed as to the concessions that this Government would be willing to make, and authorized to use his endeavors through informal discussions with the several factions in China, in the hope of persuading them to act together for the purpose of establishing a committee or other group of negotiators who would be jointly authorized and empowered for the purpose by all factions.

In order to keep faith with the other powers jointly interested in the treaty status, and to avoid arousing an antagonism that would tend to defeat our purpose, it would be advisable to have the American Minister privately and confidentially inform his colleagues, of the several interested nationalities, of the main outlines of the project. It would, however, handicap him considerably in the effort to bring matters to the point of negotiation, if any public announcement were made of our intentions in the matter. The chances of success in such a project are relatively slight at best; but the hope of accomplishing anything positive would rest largely upon the possibility of his dealing with the matter in a wholly private and informal way with the several factions involved, without any such publicity as would virtually compel the various factions to treat the proposal as a matter of rivalry among themselves.

As to the subject matter of the arrangement contemplated, there are really only two matters of considerable consequence in which the American Government is interested,—restrictions upon the tariff duties leviable by China and the system of extraterritoriality jurisdiction.

¹²Temporarily in the United States.

Of these two matters that of extraterritoriality is ruled out by the fact that the Chinese have not yet such laws or judicial organization as would enable them to assume the function of dispensing justice where foreigners are the defendants. It is therefore premature to consider the abandonment of extraterritoriality; and in view of the importance which that subject has artificially been made to assume as a political slogan among the Chinese, it would be dangerous to broach the subject in any way at this time.

The subject matter of the proposed partial revision should therefore be confined to the question of tariff restrictions. What took place at the Peking tariff conference in 1926 virtually imposes upon us a moral even though not a legal obligation to concede on January 1, 1929 autonomy with respect to tariffs; and even though this moral obligation should be questioned it remains a fact that the Chinese so regard it and will almost surely insist upon this concession. If within the next fifteen months we are to confront such a claim on the part of the Chinese which we are not for our part prepared to resist, there would be everything to gain and nothing to lose if we were able to assure ourselves in advance that the tariff increases made by the Chinese would not come into effect with such abruptness as to dislocate trade and that above all there should be an assurance that American trade would be protected from discriminatory treatment.

It would be wholly impossible to get any effective provision for the abolition of *likin* or for the regulation of inland taxation upon goods after importation or before exportation. It is exceedingly doubtful whether, during the comparatively brief interval to elapse, it would be intrinsically worth while, or possible without unduly complicating and delaying the prospective negotiations, to provide for the application, in the meanwhile, of any tariff such as that upon which agreement was reached among the various experts at the tariff conference in 1926.

The whole purpose in view might in fact be met by a document incorporating, with a few modifications, the provisions of Article VII of the American treaty with Siam signed December 16, 1920 (Malloy's *Treaties*, 2829-31),¹³ together with certain clauses from Article I of that treaty. The provisions suggested would be substantially as follows:

Notwithstanding the provisions to the contrary contained in any of the treaties now in force as between the United States of America and China, the United States of America recognizes that as from January 1, 1929 the principle of national autonomy should apply to China in all that pertains to the rates of duty on importations and exportations of merchandise, draw-backs and transit and all other

¹³ *Foreign Relations*, 1921, vol. II, p. 867.

taxes and impositions; and subject to the condition of equality of treatment with other nations in these respects, the United States of America agrees to assent to increases by China in its tariff to rates higher than those established by existing treaties,—on the further condition, however, that all other nations entitled to claim special tariff treatment in China assent to such increases freely and without the requirement of any compensatory benefit or privilege.

The citizens of each of the high contracting parties shall not be compelled, under any pretext whatever, to pay any internal charges or taxes other or higher than those that are or may be paid by native citizens and subjects. They shall be exempt in the territories of the other from compulsory military service either on land or on sea, and from all contributions imposed in lieu of personal military service, and from all forced loans or military exactions or contributions.

While it must be acknowledged that in the present state of affairs in China it is scarcely possible to hope for success in the endeavor to get the factions to cooperate even for the purpose of obtaining an agreement so obviously to the advantage of the Chinese people, it would seem that the effort is worth making, not only for the sake of the advantages that would accrue from success, but also for the sake of the more satisfactory tactical position which we would occupy with respect to the question of the "unequal treaties" even in the event that the effort to negotiate should prove unsuccessful.

MACM[URRAY]

793.00/192: Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, November 28, 1927—9 p. m.

[Received November 28—10:50 a. m.]

1042. Following in plain from American consul general at Shanghai: "November 26, noon. C. C. Wu¹⁴ issued following statement at Nanking under date of November 24th:

"In order to reiterate the attitude of Nationalist Government of the Republic of China in regard to treaties and agreements with foreign governments and their nationals, the Minister of Foreign Affairs deems it appropriate to make the following declaration:

"1. As there is no reason for the existence of the unequal treaties and agreements concluded between former Chinese governments and the governments, corporation[s] and individual[s] of foreign states, they shall be abrogated by the Nationalist Government within the quickest possible period.

2. Those treaties and agreements whose term has expired have, as a matter of course, become null and void.

¹⁴ Minister for Foreign Affairs in Nanking Government.

3. Any treaty or agreement purporting to be made by any Chinese authority with any foreign government, corporation or individual without the participation or sanction of the Nationalist Government is of no validity whatsoever.

4. No treaty or agreement relating to China, to which the Nationalist Government is not a party, shall be deemed binding on China." "

MAYER

711.93/156: Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, December 18, 1927—noon.

418. 1. On December 13 and 15 Frank W. Lee, who is in possession of a letter from C. C. Wu showing that he is an official of the Nationalist Government, called at the Department unofficially and stated that the Nationalist Government at Nanking would willingly give authority to Minister Sze, David Yui, and Lee, himself, to conduct negotiations with representatives of the American Government in regard to treaty revision on the basis of the statement of January 27th by the Secretary.¹⁵ Lee remarked that this appointment had been offered to Sze; but that Sze, while indicating a personal willingness to accept, had stated that the matter would be referred by him to Peking and that Peking, if the proposal for a joint commission for treaty negotiations was agreeable to it, probably would wish to appoint its own additional delegates, perhaps Koo and W. W. Yen. It is stated by Lee that Chiang Kai-shek has made public his proposal for a joint commission and has intimated that perhaps such announcement might have brought upon him criticism from those extremist elements which oppose recognition of Peking by the Nationalists. It is represented by Lee that Nationalist authorities are very anxious for information concerning the attitude of the American Government in regard to this proposal and earnestly hope for some announcement, which I do not propose to make at this time, commending the proposal.

2. The Chinese Minister, who informed me of this proposal while calling at the regular diplomatic hour, stating that he did so not under instructions from Peking but on his own personal account, inquired what the American Government's attitude toward him would be if he were on the delegation. The Nationalists apparently assumed that Peking would be represented by him. Sze and Lee both have been informed that the January 27 statement describes accurately this Government's position in regard to any proposal for treaty negotiation.

¹⁵ See telegram No. 28, Jan. 25, to the Chargé in China, p. 350.

3. Sze and Lee both emphasized the difficulties confronting the Nationalist authorities in consequence of the break with the Communists and Soviet Russia and the urgent desirability that the Nationalist Government have the incidental support to be derived from an open approbation by the American Government of the proposal for establishing a joint Peking-Nanking commission to commence treaty revision negotiations.

4. Sze has been told by me that I have no desire to become entangled in China's domestic politics and I have refrained from making any comment concerning the personnel of the proposed commission. However, I remarked that in case China should have a definite proposal to make I would be glad to have it presented for the consideration of this Government.

5. If the Peking Government and the Nationalists should come together to the extent of creating a delegation or joint commission, such as described above, which substantially is the suggestion made by you to me during our conversations and which I approved, then, of course, we should in good faith show our willingness to fulfill the promises contained in my statement of January 27, 1927. We would have to know, of course, whether such delegates had sufficient authority for negotiating. If a joint commission is formed spontaneously, I am inclined to think that an announcement of our willingness to conduct negotiations with it might conceivably lead to a further *rapprochement* between Peking and Nanking, and afford a basis for terminating the civil war, and serve toward mitigating antiforeign feeling in China, as well as give satisfaction to that portion of the American public which insists that every opportunity possible be given the Chinese for achieving their national aspirations. Initiation of the negotiations would also afford an opportunity to insist that until replaced the present treaties must stand.

6. It is desired that together with your comments you telegraph any information in regard to the matter of a joint commission which you may have received without inquiry.

KELLOGG

711.93/158

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] December 22, 1927.

Mr. Frank W. Lee, representative of the Nanking authorities, called on Mr. Johnson this morning with reference to the matter of a Chinese commission to negotiate treaty revision. Mr. Lee stated that he had received a telegram informing him that the Nanking authorities had approved the appointment of Alfred Sze and one

other person as representatives from Peking. No one was named but he thought that the representative would be either Wellington Koo or Dr. W. W. Yen. He asked Mr. Johnson whether this would meet with the approval of the American Government. Mr. Johnson stated that the American Government could not say in advance that such a delegation would be satisfactory to it. He stated that the Secretary's statement of January 27, 1927, had laid down the basis upon which the American Government was willing to negotiate. Any delegation must be representative of China and it must be a delegation which could insure that the commitments which it undertook would be carried out. Mr. Lee stated that he wanted to give his government as much encouragement as possible and at the same time not to mislead them and he asked for a statement which he could make to them of the Secretary's position. Mr. Johnson stated that he could tell them that when China appoints a delegation which will be representative of the Chinese authorities, the Secretary stands ready to fulfill the promises which he made in his statement of January 27, 1927. Mr. Lee stated that this was very satisfactory.

711.93/160 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, December 28, 1927—noon.

[Received 5:35 p. m.¹⁶]

1127. Department's 418, December 18, noon.

1. Your telegram was received on the 22nd. Up to that time nothing had come to my attention in regard to this subject other than a speculative and ill-informed article in a local Chinese paper of December 21 purporting to give an account of the efforts by Lee to associate himself with Sze for the object of seeking treaty revision. The article in question alleged that Lee had been rebuffed in these efforts.

2. One of the counselors of the Peking Foreign Office, who is particularly well known to the Legation, called on me during the evening of December 24 in behalf of the Minister for Foreign Affairs in order to inquire as to the accuracy of a report emanating from a supposedly credible source to the effect that agents of the Nanking Government asserted that they had received assurances that you were prepared to negotiate with a joint delegation of Southern and Northern representatives with a view to a complete revision of the treaties. He was informed by me that this was not substantiated by the infor-

¹⁶ Telegram in two sections.

mation received by me from you to the effect that you were willing only to consider the claims of a joint delegation presenting itself to you as having authority and as being competent to negotiate on the basis of your statement of January 27, 1927.

3. The present proposal, as I understand it, contemplates negotiations in conformity with your statement of last January for a general revision of our treaties, including both extraterritoriality and tariff matters. There is a radical difference between this and the suggestion which I made to you and which you approved. See the memorandum outlining my suggestion, presented to you October 21,¹⁷ and your undated minute of our conversations on this subject.¹⁸ The suggestion I made was limited to the matter of tariff restrictions and in fact was a very good *ex post facto* limitation. Furthermore, it contemplated that negotiations would be carried on in China. In my opinion, both of these conditions are essential.

4. In regard to the scope of the negotiations, the principal issues are extraterritoriality and tariff. Considering that our policy is to get rid of our existing rights in regard to tariffs and to impose in return no safeguards, obligations, or conditions other than an assurance that our trade shall not be subjected to any discriminatory treatment, I believe that, as to tariff questions, it would be reasonably safe for us to accept as competent for that purpose any negotiators whose representative character can be made plausibly apparent. In the matter of extraterritoriality, however, your January statement presupposes the establishment of safeguards corresponding with the development of Chinese law and judicial institutions. For this purpose it would be necessary to require that China assume and effectively carry out obligations and responsibilities. Obviously no group of Chinese representatives is in a position effectively to bind China or any portion of China to such obligations. Therefore, no negotiations in regard to extraterritoriality could be anything but a delusion at this time.

5. Moreover, the very fact of such negotiations would again stir up agitation, now almost quiescent, against the "unequal treaties". Such agitation in the past has not been directed particularly against us, but that would be the case now if we undertook to initiate negotiations and then stopped short of a complete and unconditional relinquishment of our rights of extraterritoriality.

6. It is my opinion that the holding of negotiations in Washington

¹⁷ *Ante*, p. 363.

¹⁸ Not printed.

rather than in China would give to them a wholly different aspect. Assumptions on the part of Chinese that treaty questions are abstractions unrelated to actual conditions in China as affecting foreigners and their interests would tend to be emphasized. Thus would be obscured the necessity of even an effort on the part of the Chinese to set their own house in order as a basis for the most satisfactory treaty relationships. I am apprehensive lest a greater stress on the hope of striking off the books all American treaties would distract the attention of the Chinese from the substantial and concrete project already the subject of formal discussion between the North and South, through the intermediation of the Customs Administration (in regard to which I am submitting a separate report), whereby the two principal regimes would reach a mutual understanding upon customs and tariff policy. The latter is a project which I consider the most constructive possibility yet presented as a means of developing community of action between the North and South in relation to questions of national scope and as a means of establishing a basis of ultimate unification.

7. Incidentally to be considered is the fact that, in view of the efforts made through more than two years to negotiate in China a solution of such matters as are actually negotiable, a transfer of the negotiations to any foreign capital would signify to the Chinese that the government which consented to such transfer had so far lost confidence in its diplomatic representation here as to justify it in pursuing a procedure unprecedented hitherto in the case of China. This situation would be emphasized by the fact that Belgium, although allowing itself to be forced into a one-sided revision, stood firm, nevertheless, in insisting that the negotiations be carried on through its Legation here. This Legation would be so far discredited by the adoption of other procedure in this case as to deprive it of all influence or possibility of usefulness in behalf of the interests of Americans.

8. I strongly recommend, for the reasons stated, against the undertaking of any negotiations in Washington with a nominal all-Chinese representation. I urge instead that you reaffirm your oral instructions to me to seek an opportunity for negotiating informally with the several regimes in China solely in regard to customs restrictions and the treatment of American trade; and that, for that purpose, you authorize me particularly to lend all possible influence and support to the furtherance of the project now under discussion (as referred to above) for an agreement between North and South on customs and tariff matters.

MACMURRAY

THE SPECIAL CONFERENCE ON THE CHINESE CUSTOMS TARIFF¹⁹

500.A4e/705

The Belgian Ambassador (De Cartier) to the Secretary of State

WASHINGTON, March 23, 1927.

SIR: I have the honor of submitting to your Excellency, the following *aide memoire* in compliance with the suggestion you were kind enough to make in our conversation today.

About the end of last year, the Chinese Government notified the Representatives of the Powers of Peking, with the exception of the Belgian Minister, of its intention to apply the surtaxes on tariff duties, provided for by the Treaty of Washington of February 6th, 1922,²⁰ and at the same time, suggested the eventual re-opening of the Tariff Conference of Peking.

The Chinese Government takes the position that, as the Tariff Conference was instituted in order to permit an increase of the customs duties imposed upon China by the Powers having "unequal treaties", Belgium has no longer a right to participate in the Conference in view of the denunciation of the Chinese-Belgian Treaty of 1865 by China.²¹

The Belgian Government does not admit this contention.

Although the Government of Peking may consider the Treaty of 1865 as no longer in effect since they have denounced it, the Belgian Government has always contested the validity of this denunciation, and regards the Treaty of 1865 as still in force.

Moreover, Belgium has the right to sit at the Tariff Conference of Peking as a signatory of the Treaty of Washington of 1922 (Art. 2 Sec. 2 of the Treaty).

Even if the denunciation of the Treaty of 1865 were considered valid, China would not have the right to prevent Belgium from sitting at the proposed Conference if the Belgian Government so desires, either for the purpose of taking part in the discussions concerning the consolidation of the Chinese debts or for any other purpose.

In view of the fact that the American Government is the depository of the Treaties of Washington, I have been instructed by my Government to advise you of the circumstances as above outlined, not so much perhaps for the purpose of requesting your immediate intervention, but more with the thought that should the time come, we might count on your friendly action, so as to fully preserve Belgium's rights in the matter.

I avail myself [etc.]

E. DE CARTIER

¹⁹ Continued from *Foreign Relations*, 1926, vol. 1, pp. 743-863.

²⁰ *Ibid.*, 1922, vol. 1, p. 282.

²¹ See *ibid.*, 1926, vol. 1, pp. 984 ff.

500.A 4e/705

The Secretary of State to the Belgian Ambassador (De Cartier)

WASHINGTON, April 14, 1927.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of March 23, 1927, which contained an *Aide-Mémoire* on the subject of the participation of the representatives of the Belgian Government in the Special Customs Conference that was convened at Peking on October 26, 1925.

In reply I have the honor to state that this Government has taken due note of Your Excellency's statements concerning the conflicting positions of the Belgian and Chinese Governments in regard to this matter. The Powers other than China signatory to the Treaty of February 6, 1922, concerning the Chinese Customs Tariff seem to be in agreement that there are at the present time no delegates of the Chinese Government qualified to represent China at the Conference, in consequence of which the Conference is not in session. The question of the constitution of the Conference seems, therefore, at the moment not to demand solution in agreement with the Chinese Government.

Accept [etc.]

FRANK B. KELLOGG

EFFORTS OF THE UNITED STATES TO MEET SITUATION CREATED BY IMPOSITION IN CHINA OF TAXES IN CONFLICT WITH TREATY PROVISIONS ²²

893.512/517: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 13, 1927—4 p.m.

[Received January 13—10 a.m.]

27. My telegram number 22, January 11, 10 a. m.^{22a}

1. Dr. Koo as "Minister for Foreign Affairs and Acting Premier" of the new regency Cabinet established by Chang Tso-lin²³ (as to which I am reporting separately) sent a Secretary of the Foreign Office yesterday evening to inform me that the Cabinet had enacted yesterday three mandates (which have been promulgated during the night) of the following tenor: first, tariff law autonomy will become effective January 1st, 1929; second, Washington surtaxes²⁴ will be levied for February 1st next through the Maritime Customs; meanwhile Foreign Office is to take up with Legations immediately the

²² Continued from *Foreign Relations*, 1926, vol. I, pp. 863-940.

^{22a} Not printed.

²³ Commander in chief of the Chinese Northern armies.

²⁴ See art. III, nine-power treaty concerning the revision of the Chinese customs tariff, signed at Washington, Feb. 6, 1922, *Foreign Relations*, 1922, vol. I, pp. 282, 285.

question of resuming Tariff Conference²⁵ with a view to arranging for the higher so-called interim surtaxes; and third, new revenues thus made available are to be applied (in proportions hereafter to be determined) to three purposes, namely, sinking fund for abolition of likin, funding of unsecured debts, and urgent administration and constructive expenses (presumably including therein China's League of Nations contribution and maintenance of foreign representation).

2. Will forward comment later.

MACMURRAY

893.512/520 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 18, 1927—9 a. m.

[Received 9:55 a. m.]

43. My number 27, January 13, 4 p. m.

1. The first of these mandates is of course of overshadowing importance but I trust there will be an opportunity for me to discuss it with you in person before final action with respect to it becomes necessary.

2. The second raises an immediate question for decision. We may, on the one hand, either make a futile protest or let the matter go by default; or, on the other hand, we may make the best of a bad matter and at the same time discharge both legal and moral obligations assumed at the Washington Conference by asking the British and other nations to join with us in a declaration such as was set forth in my 598, December 4, 4 p. m.,²⁶ to the effect that we are prepared to agree hereinafter Washington surtaxes to be levied immediately and unconditionally upon our trade by the Maritime Customs throughout China. I am convinced that the latter course is the only practicable means of meeting the situation and of avoiding falling between two stools.

3. I understand that foregoing proposal has now been accepted by all interested Governments except Swedish and Norwegian (which have not yet given their representatives any instructions) and the Japanese which has taken an adverse position.

4. With reference to the mandate involving the question of the resumption of the Tariff Conference, it seems to me obvious that the Chinese by dealing unilaterally with the questions of Washington surtaxes and of tariff autonomy matters, which the Conference was to determine²⁷ by the process of mutual arrangement, have wholly destroyed basis for any claim to ask for resumption of Conference negotiations for the purpose of dealing with interim rates or any

²⁵ See *ibid.*, 1926, vol. I, pp. 743 ff; also *ante*, pp. 371 ff.

²⁶ *Foreign Relations*, 1926, vol. I, p. 904.

other remaining questions. To resume meetings would in my opinion result not in any bona fide negotiations but in a situation in which the foreign delegates having already had the major and vital part of the Conference program taken out of their hands would now have to choose between accepting substantially *in toto* Chinese proposals or being told that these proposals would be put into force unilaterally.

5. I should personally be the less positive in my views on this matter had I any belief that third mandate concerning allocation of new revenues was other than mere window dressing to make Northerners appear more regardless [*regardful?*] of China's obligations than the Southerners have made [*been?*]. The Chinese want all that the traffic will bear and I fear that without the exercise of such pressure as the now vanished prestige of the powers might have brought to bear in October 1925 there is disillusion in store for any who take the mandate at face value and indulge the hopes that trade will be freed from internal taxation or that their acceptances will be paid.

6. I am furthermore moved by the consideration that if we now consent to deal with the Fengtien party as the Government of China, for the purpose of arranging for new revenues beyond those which [apparent omission] we shall expose ourselves to certain attack by the Southerners on the ground that we are gratuitously and with malice prepense assisting North to crush South through providing North with the bulk of the sinews of war. We would thus bring upon ourselves the same kind of denunciation with which South greeted recent British proposals and we would have but little valid defense.

7. Three mandates have now been transmitted to various Legations with an accompanying note in which it is stated that in view of the failure of the Special Conference to reach any definitive agreement with regard to tariff autonomy and the levying of the surtaxes there is no alternative but for the Chinese Government to declare on its own initiative that the national customs tariff will be enforced and the Washington surtaxes be levied as from the dates specified. The note however contains no invitation for a resumption of the Conference for the purpose of discussing "interim rates".

8. I am of the opinion that this arbitrary action should not be countenanced by any recognition such as would be implied in a proclamation agreeing to the levying of the surtaxes from any specified date but that the situation may best be met by similarly unilateral action on the part of the powers in which, through individual notes, they should signify their assent as above suggested to the immediate and unconditional levying of the surtaxes upon the trade of their nationals through the Maritime Customs. I am informed however that the British will make definite reply to the note accepting levy of surtaxes.

It appears certain that the Japanese will not approve of the levy of surtaxes but in this they will probably be alone. The attitude of the Japanese is puzzling in view of the fact that the collection of the surtaxes is inevitable, but it may be dictated by domestic political considerations arising from pressure exerted by Japanese mercantile and financial interests.

9. With regard to classification of luxuries to bear five percent surtax, it has been intimated to me that the Chinese intend to make a very inclusive list such as they originally proposed in the Conference. British Minister is recommending to his Government that an effort be made to induce the Chinese to accept list of luxuries tentatively agreed upon in the Conference but never made effective by reason of failure to reach an agreement with regard to any surtaxes.

10. Interested Ministers meet to discuss foregoing matters on the 20th and I request, if possible, expression of the Department's attitude by that date.

MACMURRAY

893.512/520 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, January 18, 1927—7 p. m.

14. Your 43, January 18, 9 A. M.

(1) Action suggested by you in paragraph 8 has my approval, namely, that you should reply signifying your assent to the immediate and unconditional levying of the surtaxes upon the trade of American nationals through the Maritime Customs.

(2) I approve making an effort to induce Chinese to accept list of luxuries tentatively agreed upon in the conference but I do not desire that this point should be insisted upon.

(3) I do not understand that Peking authorities have actually issued invitations for resumption of conference. In this connection will telegraph you later.

KELLOGG

893.512/524 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, January 21, 1927—noon.

[Received 1:30 p. m.]

58. Department's telegram No. 14, January 18, 7 p. m., and last paragraph Legation's 43, January 18, 9 a. m.

1. At meeting yesterday Japanese Minister stated his Government was opposed to the surtaxes and while anxious to have an exchange

of views at the meeting he wished to state that his Government was now ready to make known to the Chinese Government its ideas in opposition to the surtaxes independently of the other powers. It seemed evident that the Japanese Minister was about to address note of protest to the Wai Chiao Pu. Yoshizawa furthermore affirm[ed] that his Government was pleased to observe that the Chinese Government desired to resume the Conference, with which proposal the Japanese Government was in entire agreement.

2. In connection with Minister MacMurray's suggestion in paragraph 2 of the Legation's 43, January 18, 9 a. m., and the idea expressed in paragraph 8 thereof, I have become more and more convinced that we should avoid any formal reply to the Wai Chiao Pu accepting the surtaxes in so many words not only for the reason advanced in Legation's number 43 but also in order to avoid appearing to discriminate against the Nationalists in favor of the Peking regime. It will be recalled that when former instituted the ill-advised taxation at Canton we protested.²⁷ To acquiesce in and thus condone a similar illegality on the part of Peking authorities could not but seem discriminatory in the eyes [of] Southerners.

3. At meeting therefore I proposed that, instead of a joint reply or identic reply to the Wai Chiao Pu's note in question, an effort in particular [be made?] to agree upon a declaration by the powers concerned assenting in general terms to the imposition of the Washington surtaxes in the sense of paragraph 2 of the Legation's 43. A copy of such a declaration could be sent to the Wai Chiao Pu for its information which would serve as a reply to its note of January 13. Although the Japanese Minister expressed himself as almost inevitably unable to concur in such a declaration, repeating the necessity of his protesting formally with the Wai Chiao Pu against the new surtaxes, it was the sense of the meeting that an attempt should be made to draft such a declaration which a committee consisting of the Netherlands, the French Minister and myself have drawn up to the following effect:

"The representatives in China of the powers signatory and adhering to the Washington Treaty of February 6, 1922, relating to Chinese customs tariff have noted the fact that the surtaxes determined upon and promised to the Chinese Nation at the Washington Conference have been put into effect or are about to be put into effect in various parts of the country.

In view of this widespread indication of the desire of the Chinese people that these surtaxes should be implemented at once, the representatives of the powers concerned, consistent with their intention to carry into effect that [*the?*] promises made to China at Washington, consider it their duty to declare that they have no objection to the immediate and unconditional imposition of the Washington surtaxes at all treaty ports throughout China.

²⁷ See *Foreign Relations*, 1926, vol. I, pp. 863 ff.

The interested diplomatic representatives assume that on grounds of convenience and efficiency arrangements may be made for the collection of these surtaxes through the medium of the Maritime Customs Administration."

4. While it was my original intention to try and devise a formula to which the Japanese could agree, the drafting committee decided that this would be impossible and it would be preferable to proceed in an effort to draw up a draft which would be acceptable to the rest of the colleagues with the hope that [in the] last analysis Japanese would come in rather than be isolated by refusal to concur. It was believed advisable not to make collection by the Maritime Customs appear as a condition precedent to agreement with the surtaxes since in effect we had no means of enforcing this condition and since we desired to present the surtaxes to the Chinese people with no strings tied to them.

5. While I assume from the Department's 14, January 18, 7 a. m., that it would approve of such a declaration, I respectfully request telegraphic instructions to this effect at the earliest moment practicable in particular reference to my joining in such action without the concurrence of the Japanese or even should only several of the powers such as Great Britain, France, Italy and the like agree with us thereto.

MAYER

893.512/524 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, January 24, 1927—4 p. m.

23. Your 58, January 21, noon.

1. Apparently there is no possibility that there can be unanimity of agreement among the Powers on subject of immediate and unconditional putting into effect of Washington surtaxes. Japanese Ambassador called upon me on January 21 and outlined his Government's position as being opposed to proposal to consent to putting into effect of surtaxes by China without due negotiation as provided by the Washington treaty. The Japanese Government holds that to follow such a line would amount to formal acceptance of abandonment of Washington Conference treaty by China and is convinced that this would be interpreted by the Chinese as a clear indication that the Powers will accept the unilateral denunciation by China of the tariff and extraterritorial provisions of the treaties.

2. The Japanese Ambassador called upon the Chief of the Far Eastern Division on January 22 and again outlined the views of his Government as set forth above. He added that his Government

had instructed him to say that it had been informed of the steps taken in this matter in the meeting of the Diplomatic Body on January 20. He stated that his Government had been informed that the Diplomatic Body proposed to make public the declaration quoted in Paragraph 3 of your No. 58, subscribed to by all but Japanese Minister if Japanese opposition had not been withdrawn when Diplomatic Body meets again on January 27.

3. The Ambassador stated that his Government knew this Government's attitude toward the question of the surtaxes but that it felt that there was much difference between the temporary internal taxes imposed by the so-called Nationalist authorities in South China and the proposal of the Peking authorities which was to put into effect throughout China the surtaxes on China's external trade provided for in the Washington treaty. His Government could not see how the two phases of this tax matter could be covered together under the one term *surtaxes* in a declaration such as that proposed by the Diplomatic Body.

4. The Ambassador stated that he had been directed to say that in the opinion of his Government such a declaration at this time when the rights of treaty Powers were being attacked and when it was so necessary that there be cooperation on the part of the Powers would mean the scrapping of the Washington treaties; that the Japanese Government had always abided by the Washington treaties and had been animated by a sincere desire to cooperate with the other Powers in these matters and that if action is taken such as that proposed by the Diplomatic Body Japan would not only be isolated, but it would demonstrate to the Chinese a lack of cooperation among the Powers which could not but have the most regrettable reaction upon international friendship and good faith.

5. The Ambassador asked whether in view of the most important results which his Government foresaw would follow the action proposed by the Diplomatic Body the Government of the United States still approved of the proposal adopted by the Diplomatic Body.

6. The Department has on several occasions informed you that this Government is prepared to consent to the immediate putting into effect of the Washington surtaxes, its most recent instruction being its telegram No. 14, of January 18, 7 p. m., authorizing you to signify to the Chinese this Government's assent to the immediate and unconditional levying of the surtaxes upon the trade of American nationals. Department agrees with you that collection should not be conditioned upon collection through Maritime Customs.

7. This Government does not wish, however, to appear to be favoring one side or the other in the conflict now going on in China. It furthermore believes that every effort should be made to adjust differences of viewpoint with a view to unified action by the Powers on

this matter and desires your comments on this point before authorizing you to join in a declaration on the subject which would not include the Japanese, as suggested in Paragraph 5 of your No. 58.

8. In his conversation on January 21, with the Secretary, the Japanese Ambassador stated that the Japanese Minister at Peking acting under instructions had proposed sometime ago to the Diplomatic Body a resumption of the Special Conference for the purpose of discussing these matters, representatives of the two opposing groups in China being invited to participate with representatives of Chinese business men not connected with politics. I should like to have your comments upon the suggestion as to a possible means of bringing together the contending groups for the purpose of reaching a solution of some of these matters by orderly negotiations.

KELLOGG

893.512/534: Telegram

The Chargé in China (Mayer) to the Secretary of State

[Paraphrase]

PEKING, January 25, 1927—9 p. m.

[Received January 25—12:10 p. m.]

80. 1. British Minister states he has received a telegram from Inspector General of Customs (now at Hankow consulting with the Nationalists) which says that Ch'en declares that, if the Northerners put the collection of the surtax under Customs, the Nationalists will seize all customhouses. Therefore the British Minister has decided that he is unable to agree to include the last paragraph in the draft declaration transmitted to the Department in my No. 58, January 21, noon, third paragraph, expressing hope that the Customs would collect the surtaxes.

2. I propose adopting a similar attitude in the meeting for discussion of the matter, scheduled Thursday, January 27, unless instructed to the contrary (and assuming that Department informs me in meantime of its approval of the draft declaration).

MAYER

893 512/542: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 7, 1927—9 a. m.

[Received 11:35 a. m.]

116. Your telegram No. 23.²⁸

1. The draft declaration proposed in the Legation's telegram No. 58, January 21, noon., was drawn up on the assumption that all powers except Japan would be prepared to subscribe toward means

²⁸ January 24, p. 377.

of immediately and unconditionally putting into effect Washington surtaxes. When at the diplomatic body meeting of January 27th it became apparent that our Government was not at that time prepared to take this position, there was general disposition on the part of the French and other less interested nationalities to let whole question go by default, tacitly letting surtaxes be imposed. Unless the British should succeed in once more lining up the less interested governments, it is quite unlikely that any such declaration as was contemplated can be made and in that case it would no doubt be advisable for us to acquiesce tacitly in the surtaxes, reported in my 27, January 13, 4 p. m., avoiding either a futile protest [apparent omission] which would merely antagonize both the South and Japan without bringing us any nearer to the fulfillment of our obligations under the Washington Treaty. The differences of viewpoint among the powers are at any rate beyond any possibility of adjustment. (Your 7th paragraph.)

2. In my opinion the Japanese proposal to resume the Tariff Conference with a Chinese delegation in which the North and the South would be represented (8th paragraph) "is not" politics. Even if they could sink the animosities of their life and death struggle, both sides are now equally convinced that they are in a position to take what they want from the powers without asking and would see no advantage to be derived from combining for the purpose of negotiations that would merely involve restrictions or conditions upon their ability to act wholly without regard to any obligations under the Washington and other treaties. Though the Peking authorities have of late indicated vaguely a wish to resume the conference with them, that has been only with a view to legalizing *ex post facto* their own arbitrary imposition of surtaxes for the purpose of making them a better security for loans.

3. I must very regretfully report that with the recent offer of the British Government to subject its nationals to the Chinese regime in all matters of taxation (see British memorandum of January 19th²⁹ quoted in your telegram No. 17, January 20, 4 p. m.³⁰), with the Peking Government's imposition of surtaxes (my number 27) and with the attack upon the integrity of the Maritime Customs Service inaugurated by its brusque dismissal of Aglen³¹ for not consenting to serve the interests of particular faction within the Northern group (my telegram No. 104, February 1, 5 p. m.³²) we have arrived at a point where we are helpless in all matters relative to the taxation of foreign trade. Both North and South have definitely broken away not only from the "old" treaties but from the Washington

²⁹ *Ante*, p. 344.

³⁰ Not printed.

³¹ Sir Francis Aglen, Inspector General of Chinese Maritime Customs.

³² *Post*, p. 457.

Customs Treaty as well. Protests against treaty violations are bound to be fruitless; and foreign commerce will henceforth have no safeguards against the arbitrary exactions of the local authorities along the line from point of landing to destination. For example, in Kwangtung there has already been established provincial tax in addition to import duty and surtaxes and to likin; in Mukden the authorities have declared the system of exemption certificates inapplicable for the whole of Manchuria, thus nullifying in this respect the status of open ports in Manchuria; in Shantung, the two and one-half percent surtax on imports is being collected from February 1st in addition to the similar "goods" tax on both imports and exports which has been levied in that province since October; in the Chahar district, consignments are admitted only under special permits from the Governor for which no fixed scale of charges is made and for which no receipt is given against payments; in Peking, the Cabinet is reported recently to have given to favored Chinese company exemption from all inland and coastwise duties.

4. The old Canton system of monopolies and special privileges and of artificial restrictions upon foreign trade is rapidly building itself up again now that safeguards of the treaties have been overridden. I fear the time for protests and the time for action have gone by and that there is nothing for it but to let the Chinese—at the cost of great loss to their interests and to our own—learn by experience that that system is economically unsound and unworkable in the modern organization of the world.

5. In the absence of something concrete and positive means of meeting this situation I see no alternative at the present time but to bow to the storm and accept with what grace we may the fact that our trade is now absolutely without such treaty protection in China as it has in most other countries despite the fact that it is here subject to an infinity of restrictions and exactions which, so far as I am aware, are known in no other country, with the result that in spite of low tariff rates at the point of landing a great proportion of our imports pays total charges far in excess of those provided for under the tariffs of any other country.

MACMURRAY

893.512/545: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 11, 1927—1 p. m.

[Received 3:15 p. m.]

132. Following from American consulate, Foochow:

"February 10, 10 a. m. By the authority of commanding officer, Chinese Navy, the local superintendent, Customs has established surtax bureau. Surtax is collected simultaneously with the regular im-

port duty by the Customs bank which places receipts for both duties on the import document and will not return the document unless both are paid. This is all being done without the consent of Commissioner of Customs who says that he has officially no knowledge of it. Surtax collections are paid over to the Chinese Navy. It is probable Nationalist authorities will retaliate by setting up their own surtax bureau in addition to the various existing agencies such as the local likin which amounts to approximately five percent by itself on all goods imported. Have you any instructions?"

MACMURRAY

893.512/546 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 12, 1927—4 p. m.

[Received February 12—6:10 a. m.]

137. My 116, February 7, 9 a. m. Commissioner of Foreign Affairs at Hankow on January 25 notified American consul general that as the result of a conference between the Kuomintang Executive Committee and the delegates of the Nationalist Government it has been decided that the customhouses in the Provinces of Hupeh, Hunan and Kiangsi shall collect a river embankment surtax of one percent on exports and imports for the construction of dikes in Hupeh. I am instructing Lockhart³³ to lodge a formal written protest which I do not expect will prove of any avail.

This is a further instance of the chaotic situation in which foreign trade now finds itself as the result of the breakdown of the treaty provisions.

MACMURRAY

893.512/542 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, February 15, 1927—4 p. m.

61. Your 116, February 7, 9 a. m.

1. For some time Department has realized the increasing difficulty of obtaining complete recognition of the rights of United States nationals in China conferred by the existing treaties between the United States and China.

2. It is not possible to use military and naval forces of the United States to enforce the rights guaranteed under the existing treaties; therefore, until the present treaties can be replaced by new and effective treaty relations Department is of the opinion that a policy of patience and watchfulness is the only path that can be followed.

³³ Frank P. Lockhart, consul general at Hankow.

3. With reference to taxes and imposts levied on American goods imported into China and goods purchased in China by American citizens for export, the Department is of the opinion that the Legation and the American Consulates should carefully watch the situation and report in detail on all such taxes, the methods used in their collection and the authorities by whom they are established. While the Department is disposed to agree with you that protests against the imposition of such taxes in direct violation of strict treaty provisions are likely to be futile and in general should not be made henceforth, it believes, nevertheless, that the Legation and the Consulates should be on the alert to take up with the *de facto* authorities any case where an American citizen or interest can show that he or it has been subjected to discriminatory treatment. In replying to the telegram of February 10, 10 a. m., from Foochow you will instruct the Consul in this sense.

4. The Department would like to have your comment by mail despatch on some general policy throughout China with regard to the payment of local municipal taxes by American citizens. By municipal taxes the Department has in mind police, fire protection, street maintenance and similar taxes. In this connection see Department's written instruction No. 405 of May 22, 1923.³⁴

5. Department is of the opinion that a general instruction should be issued by the Legation to the Consuls in China directing them to encourage American citizens to make use of such facilities as may be offered by the modern Chinese courts (Shen Pan Ting) in cases against Chinese. Department believes that the facilities of the modern courts should be given a fair test. You will instruct the American Consul General at Hankow in this sense when replying to his telegram of February 10, 3 p. m.³⁵

6. Department desires that the Legation study the question of the provisions which should be written into a new treaty to take the place of existing treaties between the United States and China and that you report by mail your suggestions in this connection.

KELLOGG

893.512/552 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 19, 1927—5 p. m.

[Received February 19—8:45 a. m.]

158. Your February 15, 4 p. m., paragraph No. 3.

1. I assume that the Department approves of the course suggested in my February 7, 9 a. m., with reference to acquiescing tacitly in the surtaxes reported in my January 13, 4 p. m.

³⁴ *Foreign Relations*, 1923, vol. I, p. 582.

³⁵ See telegram No. 133, Feb. 11, from the Minister in China, p. 466.

Apparently the British have abandoned idea of a formal acceptance of the surtaxes in order to avoid antagonizing South and possibly precipitating disruption of the Customs Administration.

I understand however that Lampson³⁶ has informally told Koo that the British Government regards the new taxation as the equivalent of the Washington surtaxes and purposes to place no obstacle in the way of collection.

2. Am I correct in interpreting the Department's attitude with regard to discriminatory treatment as covering not only cases of discrimination as among foreign nationals but also as between Americans and Chinese; that is, national as well as most-favored-nation treatment?

MACMURRAY

893.512/552: Telegram

The Acting Secretary of State to the Minister in China
(MacMurray)

WASHINGTON, February 24, 1927—5 p. m.

71. Your 158, February 19, 5 p. m.

(1) Your paragraph 1. Department approves tacit acquiescence in surtaxes.

(2) Your paragraph 2. The treaties of commerce and amity now being negotiated by the United States provide for unconditional most-favored-nation treatment with respect to dues and charges affecting commerce. Department has held that goods originating in the United States retain their nationality until they pass through customs and become a part of the stock of another country, this being true regardless of nationality of their ownership. Hence question whether goods originating in or destined to the United States are owned by Americans, Chinese or others is not material in determining customs treatment.

In the matter of taxation, treaties now being negotiated provide that nationals of the contracting countries shall not be subjected by either to the payment of any internal charges or taxes other or higher than those exacted of and paid by nationals of the country in question.

Please be guided by the foregoing. See articles 1 and 7 of treaty with Germany signed December 8, 1923, (Treaty Series 725).³⁷

GREW

³⁶ Sir Miles Lampson, British Minister in China.

³⁷ *Foreign Relations*, 1923, vol. II, p. 29.

893.512/563 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, *March 14, 1927*—8 p. m.

[Received March 14—2:27 a. m.]

217. The following telegram from American consul general at Hankow:

"March 12, 4 p. m. My March 8, 3 p. m. Nationalist Government has now served written notice that effective today stamp tax, substantially the same as those referred to in my despatch 131, December 15, 1926,³⁸ and your despatch of January 5th, 1927,³⁹ will be collected and that failure to pay will subject all individuals and firms, both Chinese and foreign, to fines not exceeding two hundred dollars. American business interests are much upset and I should appreciate definite instructions at once as to whether taxes should be paid by Americans. Consular body has held no meeting as it seems unlikely that any unanimity of action can be obtained.

I shall inform Americans that I am not at this time in a position to advise payment of such taxes and that the matter must be left to their discretion pending definite instructions from Legation at Peking."

To the above, the Legation replied:

"March 14, 5 p. m. Your March 12, 4 p. m. Stamp tax about to be enforced by the Nationalist regime apparently applies equally to all foreigners as well as to Chinese. In line with the Department's instruction referred to in the Legation's circular instruction number 143, February 26th,³⁸ you are authorized informally to advise interested Americans at Hankow that the Legation does not feel warranted in protesting against collection of such stamp tax from American citizens in the absence of any discriminatory features and that they must determine their attitude as to compliance in the light of that and of the further fact that it appears impossible for Americans to avoid payment of tax and continue to do business. 2. The Legation is of course anxious to avoid question arising of fines for nonpayment of the tax. The Legation does not desire you to agree in any official way to the demands of the Nationalist regime and suggests that the matter be discussed with interested nationals only."

MACMURRAY

893.512/563 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, *March 16, 1927*—1 p. m.

94. Your 217, March 14, 8 p. m. Your action is approved.

KELLOGG

³⁸ Not printed.

³⁹ Not found in Department files.

893.512/573

The Minister in China (MacMurray) to the Secretary of State

No. 963

PEKING, March 16, 1927.

[Received May 2.]

SIR: I have the honor to refer to the Department's telegraphic instruction No. 61 of February 15, 4 p. m., requesting my comments on some general policy throughout China with regard to the payment by American citizens of local municipal taxes such as police, fire protection, street maintenance, and similar taxes.

Municipalities in China may be divided into two main classes: (1) Those existing in delimited areas such as the International Settlement at Shanghai and the various foreign national concessions at Tientsin, Canton, Hankow, and certain other treaty ports; and (2) Chinese municipalities of various types and of different degrees of organic development, in which foreign nationals have no special rights except such as may be accorded them by the municipal regulations and toward which their obligations vary with respect to taxation from an almost complete immunity to a substantial sanction to pay the rates in force. Instances of the latter kind are the Chinese municipalities in Peking, Harbin, Tsingtao, Foochow, Changsha and the ex-German and ex-Russian Concessions at Tientsin and Hankow.

Until within recent years, the question of the payment of taxes by foreign nationals to Chinese municipalities was not an important one inasmuch as the Chinese had not themselves developed municipal government beyond very primitive beginnings and did not supply to any great extent municipal services for which the payment of rates could be justly demanded. Light and water, if supplied at all, were generally furnished by private companies; and they are, moreover, of a character which makes it possible for them to be sold to the user on the basis of the exact amounts consumed. The only well developed municipalities were those in the foreign settlements and concessions, in which it had become, both by custom and by judicial precedent, the settled procedure that American nationals were liable for the payment of the current municipal rates.

A change in this situation has, however, gradually taken place, in that there have now come to exist well developed Chinese municipalities rivalling in importance those of the foreign settlements and concessions. This change has occurred in two ways:—(1) through the taking over by the Chinese of municipalities developed under foreign control, such as those at Harbin, Tsingtao, and the ex-enemy concessions at Tientsin and Hankow, and (2) through the rapid growth of native Chinese municipalities in areas adjoining the foreign settlements, of which perhaps the best examples are those in the Native

City and in Chapei, immediately adjacent to the Shanghai foreign settlements. This development, with regard to the first category, is now being accelerated by the present tendency toward the cancellation of the agreements relating to foreign concessions, as evidenced by the return of the Belgian Concession at Tientsin, by the very recent agreements between the British Government and the Chinese Nationalist Government concerning the British Concessions at Hankow and Kiu-kiang, and by the agitation for a readjustment of the status of the International Settlement at Shanghai.

In view of this altered state of affairs, it is obviously indefensible from any equitable standpoint, and unwise from the standpoint of expediency, to maintain vis-à-vis the Chinese authorities that American citizens must be exempt from the payment of municipal taxes when adequate municipal services are supplied. In the Legation's despatch No. 773 of October 7, 1926,⁴¹ it was stated:

"The Legation appreciates that, with the growth of Chinese municipal governments, it will be both equitable and increasingly necessary from a practical standpoint, to give careful consideration to the question whether we should not be liberally disposed to recognize the power of the Chinese to levy municipal taxes upon American citizens when adequate municipal rights are guaranteed them and appropriate municipal service is provided."

In view, then, of the fact that we are confronted with a new set of conditions such as have been described above, the question arises as to the best method of dealing in practice with the matter of municipal taxation of American citizens in the various localities where this matter has become a practical issue. At the present moment, the question of the whole status of foreign concessions is in a state of flux; the arrangements which are being made with regard to certain of the British Concessions are substantially equivalent to a renunciation of their status as foreign concessions and to their rehabilitation as Chinese municipal entities. In this connection, there is enclosed herewith, for the information of the Department, the text of the "O'Malley-Chen Agreement" relating to the liquidation of the British Concession at Hankow.⁴² Particular attention is invited to Articles 4 and 13 of the Regulations appended to this Agreement, the first of which provides that the Consul of an extraterritorial foreigner shall provide a written guaranty that he will enforce the Municipal regulations against one of his nationals leasing land or buildings within the "Special Administrative District No. 3," and the second of which provides that the Municipal Bureau shall collect "all taxes, dues, rates, fees and the like in accordance with the by-laws and such other Tariffs

⁴¹ *Post*, p. 492.

⁴² Great Britain, Cmd. 2869, China No. 3 (1927): *Papers Respecting the Agreements Relative to the British Concessions at Hankow and Kiu-kiang*.

as are now in force. . . ." Article XV provides that the Bureau shall proceed against extraterritorial foreigners for default of taxes in the Consular Court of the national concerned.

It is, of course, impossible at the present moment to foresee what arrangements may be made with regard to the other British Concessions in China; or, at what time or under what conditions the precedents now being established with regard to British Concessions may result in a general renunciation on the part of other Powers of their holdings of this kind throughout the whole of China. It may be expected, however, that any arrangements which may be made with regard to other Concessions will not be less liberal in their terms than those recently entered into with regard to the British Concession at Hankow. Obviously, American citizens who may reside or lease property in this area will be obliged to pay the same taxes as are paid by British residents; and this will hold true in the case of Americans who may reside in other areas which may be recovered by the Chinese from various foreign governments holding concessionary rights. It would seem, therefore, with respect to this class of municipalities, that it will not be necessary for the American Government to adopt any other policy than that of tacitly accepting, with respect to the taxation of its nationals, whatever arrangements are made applicable to the nationals of the Power surrendering any particular concession; and I do not feel that, in practice, there will be found any obstacle in the way of the collection of such taxes from American citizens, whatever may be the actual legal questions involved.

With regard to the existing Chinese municipalities comprised in the second category described above, I do not feel that the time has yet come to take steps to make legally binding upon American citizens resident therein the municipal rates which may be in effect. In certain instances, the regulations which have been framed are not of a character to insure any adequate participation by foreign nationals in the actual administration of the municipality or to guarantee them suitable municipal rights. An example of this is found at Harbin, the recent municipal regulations of which were discussed by the Legation in its despatch No. 773 of October 7, 1926, above referred to. In certain other of the smaller ports, the development of the municipal organization is too primitive, and the services rendered inadequate, to justify any general legal enforcement of municipal rates upon foreign nationals. There is, furthermore, the ever-present danger of the abuse of power on the part of those in authority; the ever-present risk that funds will be collected which are not devoted to municipal purposes, and that rates may continue to be exacted while municipal services are curtailed. I am, therefore, inclined to believe that, pending such time as the

Chinese shall develop in these places municipal organizations meriting a fair degree of confidence, and in view of the fact that the whole status of foreign municipalities in China is in an indeterminate state in which it is now impossible to predict how rapid or how complete may be their amalgamation with the Chinese areas to which they are adjacent, it would be preferable to follow the policy adopted with regard to Harbin, namely, to instruct American nationals, when demands are made by the Chinese authorities for the payment of municipal taxes, that the American Government advises them to pay, as a voluntary contribution, the rates levied on Chinese and other foreign nationals, when such rates are reasonable and when appropriate municipal services are rendered in return.

In suggesting this course of action, I am, of course, aware that the present tendency in all parts of China to repudiate the treaties may at any time result in some abrupt change with respect to the immunities which American citizens have enjoyed in this particular. We may at any time be faced with a situation in which we shall be obliged in all cases to pay the current municipal rates in effect or, in the alternative, be cut off from essential municipal services such as light, water, police protection, etc., or perhaps even be forbidden further residence if unwilling to acknowledge an obligation to pay municipal taxes. That situation, however, though by no means unlikely to occur in the near future, has not as yet actually arisen. Meanwhile, I am of the opinion that it would be preferable not to run the risk of precipitating any drastic action in this respect on the part of the Chinese authorities by any attempt on our part to make Chinese municipal regulations binding in a legal sense upon American citizens generally throughout China.

I have [etc.]

J. V. A. MACMURRAY

893.512/577 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 18, 1927—10 a. m.

[Received May 18—1:15 a. m.]

568. My 137, February 12, 4 p. m. Following from American consul at Hankow:

"May 16, 11 a. m. One percent surtax on imports and exports for dike construction was deferred but is now being imposed, having become effective May 10th, collections being made independent of Customs and in the same manner in which two and a half percent surtax. Five percent surtax on luxuries, list of which is being mailed,⁴³ is being collected also."

MACMURRAY

⁴³ Not printed.

893.512/573

The Secretary of State to the Minister in China (MacMurray)

No. 546

WASHINGTON, June 2, 1927.

SIR: The Department has received your despatch No. 963, of March 16, 1927, transmitting your comments on a general policy throughout China with regard to the payment by American citizens of local municipal taxes.

The Department notes your segregation of the different types of Chinese municipalities into more or less distinct categories and approves your suggestion that the policy to be followed should be adapted to the different circumstances encountered.

It seems necessary to observe, in regard to the taxation of American citizens residing either in foreign concessions or in areas that were formerly foreign concessions but are now controlled by Chinese authorities, that American consular officials should be careful to avoid entering into any commitment as to the enforceability of municipal regulations and taxes in the consular courts. Since this is a question of legal interpretation, it can be answered only by a judicial ruling in an appropriate case. (See in this connection the Department's telegram No. 131 of May 25, 1922, concerning the Kuling Estate).⁴⁴ The Department expects, nevertheless, to be given the opportunity to express an opinion, if it desires to do so, regarding municipal regulations designed to be applicable to American citizens, in order that it may ascertain whether the rights properly enjoyed by such citizens are infringed upon.

In regard to Chinese municipalities other than those embraced within the categories already mentioned, the Department concurs in your view that it would be desirable to instruct American citizens, when demands are made by the Chinese authorities for the payment of municipal taxes, that the American Government advises them to pay, as a voluntary contribution, the rates levied on Chinese and other foreign citizens, when such rates are, in the opinion of the Legation, reasonable and when appropriate municipal services are rendered in return.

It is desired that you issue a circular instruction to American consular officials in China in this sense, or special instructions as the necessity therefor may arise, as you deem most appropriate. The Department desires that the Legation should keep it fully informed in regard to developments in these matters.

I am [etc.]

For the Secretary of State:

JOSEPH C. GREW

⁴⁴ Not printed.

893.512/589 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 29, 1927—5 p. m.

[Received June 29—7:49 a. m.]

684. Following from American consul general at Shanghai:

"53. June 29, 11 a. m. Notice dated June 27 has just been issued by the Surtax Revenue Department, Nanking, stating that the Nationalist Government, Nanking, is proceeding to collect a surtax on exports amounting to one-half of the existing customs export duty on and after July 1, 1927. Notice specifying the rate of the surtax on luxuries will be promulgated later. No action has been taken by any of the local organizations."

MACMURRAY

893.512/590 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 1, 1927—4 p. m.

[Received July 1—10 a. m.]

689. Department's 61, February 15, 4 p. m., paragraph 3.

1. Following from American consul at Shanghai:

"June 30, 4 p. m. The following communication was received at 2 p. m. today from the Superintendent of Customs by the Commissioner of Customs and telephoned to me by the latter:

'Taxes on cigarettes, with the exception of customs import and export duties and surtaxes which will continue to be levied as usual, and all kinds of taxes at present leviable on cigarettes, are to be abolished and a single tax at the rate of fifty percent of value will be imposed instead from the 1st of July. A special bureau has been inaugurated by the Ministry of Finance for this purpose. Copy of the regulations governing collection of such taxes forwarded for the Commissioner's information.'

"In view of the drastic nature of the new tax, has the Legation further instructions supplemental to its circular number 143, of February 26, 1927, which contemplates noninterference by consulates unless adverse discriminatory treatment accorded American interests?"

2. The Legation circular referred to instructed consular officers in the sense of the Department's telegram above mentioned. I respectfully request the Department's instructions.

MACMURRAY

893.512/590 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 1, 1927—5 p. m.

270. Your 689, July 1, 4 p. m. Having in mind policy outlined in paragraphs 1 and 2 of Department's 61 of February 15, 4 p. m., Department considers that Legation and Consulate at Shanghai should exercise their judgment in following out procedure outlined

in paragraph 3 of Department's 61, which contemplates that as a general policy protests should not be made as they are likely to be futile but does not estop the Legation or Consulate from making protest if in the judgment of the Legation a protest seems wise.

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893.512/593 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 3, 1927—noon.

[Received July 3—7:25 a. m.]

691. Department's 270, July 1, 5 p. m.

1. Following from American consul at Shanghai:

"56, July 2, 11 a. m. Referring to my telegram of June 30, 4 p. m. Regulations provide *inter alia* that all cigarettes manufactured in China or imported into China with the exception of those that are manufactured within, imported into Kwangtung or Chekiang Provinces are liable to new fifty percent consumption tax. Official portion published in native press states cigarette tax bureaus in Kwangsi, Anhwei and Fukien have been ordered to abide by new regulations as promulgated in Kiangsu.

Revenue stamps of Nanking Ministry of Finance to be affixed when cigarettes are packed for shipment at factories in China, and at import godown in case of cigarettes imported from abroad. Stamps to be sold by head tax office or its authorized agents.

Am filing formal protest because of drastic nature of tax and its violation of previous long agreements concluded between the national Wine and Tobacco Administration and American firms selling cigarettes and tobacco as well as on the grounds that the sudden imposition of this drastic tax will work a great hardship not only on marketing firms in China but on large number of American farmers producing tobacco for use in China trade."

2. With a view to affording me opportunity for further consideration before deciding on expediency of protesting, I have telegraphed Cunningham that if he has not already protested to refrain from so doing until further instructed.

MACMURRAY

893.512/595 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 6, 1927—5 p. m.

[Received July 6—9:30 a. m.]

698. Your 270, July 1, 5 p. m.

1. Following from American consul at Shanghai:

"Senior consul has just received notification from Superintendent of Customs in his new capacity as 'Director of the Surtax Revenue Department' stating that beginning July 10, surtax will be collected on incoming passengers' baggage and on imported luxuries which

are enumerated in a lengthy list, copy of which is being mailed to the Legation immediately. Such list of luxuries as promulgated by Finance Department of Nanking Government under date of June 28th is of great volume so it is not quoted here but it is believed in general to be practically the same as list of luxuries presented for consideration of Tariff Conference in Peking in 1925-26.

The Chinese authorities appear determined to obtain revenue from every possible source and C. C. Wu,⁴⁵ in conversation at private dinner party, informed me that likin is to be abolished on August 1st, the land tax being made in future a provincial tax as substitute for likin while there will be a uniform ad valorem duty of 15 percent on general imports and from 30 percent upward on luxuries. However, list of luxuries subject to surtax and official notification relative thereto fails to state rate of such surtax but Wu has promised to supply me in immediate future with list of all contemplated taxes and Legation will be promptly advised upon receipt of more definite information by this consulate general. It is generally understood that Wu contemplates putting such a scheme into effect at an early date, probably with the briefest possible warning. If schism between Nanking and Wuchang is genuine then it appears that an attempt is being made to collect from Shanghai sufficient revenue to compensate for that formerly supplied by Moscow through the Hankow Government."

2. I am of the opinion that the imposition of this extreme taxation, which is equivalent to a denunciation of the whole treaty system as regards tariff matters, should not be passed over without a protest, even if such protest is productive of no result; and I am considering the most effective way in which such protest could be made.

MACMURRAY

893.512/593: Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 7, 1927—2 p. m.

278. Your 691, July 3, noon. Department believes that Consul at Shanghai should omit from protest statement that new tobacco taxes are in violation of private agreements between companies and the wine and tobacco administrations. This Government has not been connected in any way with those agreements and Department does not believe that private arrangements of this kind should be made the basis of protests against national tax policies.

KELLOGG

893.512/598: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 9, 1927—noon.

[Received July 9—10:57 a. m.]

708. 1. The matters reported in my telegrams 684, June 29, 5 p. m.; 689, July 1, 4 p. m.; 691, July 3, noon; 698, July 6, 5 p. m.; and 705,

⁴⁵ Minister for Foreign Affairs in the Nationalist Government at Nanking.

July 8, 3 p. m.⁴⁶ involve, first, heavy excise upon certain tobacco products; second (though as to this reserve [*received?*] thus far very inadequate information), establishment of tobacco monopolies in Chekiang, and Kwangtung; third, imposition of surtaxes upon exports; fourth, imposition of surtaxes upon imports even in excess of those so-called interim surtaxes discussed at the recent Tariff Conference; fifth, increase by 50 percent of tonnage dues. These illegal exactions represent a considered policy of organized assault upon the system under which foreign trade with China has thus far been possible, as foreseen in the Legation's telegram number 462, October 8, 8 p. m., particularly second paragraph, and 555, November 16, 2 p. m., particularly fourth to sixth paragraphs.⁴⁷ While as stated in my number 695 [698] I feel that such violations of our rights should not be passed over without protest, it is quite clear that protests conveyed by consular or diplomatic representatives are recognized by the Chinese as being purely formal and are therefore not only futile but derisory and serve only to embolden those Chinese who seek to set aside American and other foreign rights to the fullest extent that the interested Governments will tolerate. The only protest which could be of any value would be one proceeding directly from the home Government. In the light of our concern to prevent destruction of the basis of our commercial intercourse with China, it seems to me clear that the time has come when an unequivocal announcement of our determination not to forego our rights, unless and until they may have been modified by mutual consent, should be made in behalf of our Government.

2. An announcement of this sort by you or by the President, while serving the purpose of authoritative protest against the illegal exactions being put into force against our trade, would have the future value of giving definiteness to the various enunciations of our Government's policy with respect to the revision of the so-called unequal treaties. The several declarations made by the President and by yourself in that regard have of necessity been qualified by an insistence upon conditions not yet attained and perhaps not immediately attainable. I feel that the mere statement of definite and concrete matters which we would have to consider in connection with carrying out of our policy would make that policy more real in the minds of the Chinese. The statement of what we cannot tolerate would itself have the effect of lending greater conviction to our assurances of what we hope to do in behalf of China.

⁴⁶ Telegram No. 705, p. 434.

⁴⁷ *Foreign Relations*, 1926, vol. I, pp. 875 and 897.

3. I venture to suggest that the proposed statement might be along approximately the following lines:

"The American Government has patiently sought the opportunity to contribute in every practical way to the attainment by the Chinese people of their national aspirations on a basis consonant with actual conditions and with justice to the interests of the commercial and cultural activities involved. The American Government has taken into account the abnormal conditions now prevailing in China and in the absence of any Chinese authority which would be able to assure its carrying out of any such agreements as might be found mutually acceptable, our Government has nevertheless refrained from rigid insistence upon the strict letter of its treaty rights, and in various respects has acquiesced in certain concessions beyond those contemplated by the program of gradual modifications upon which it has been acting.

It is nevertheless essential that any substantial revision of the existing treaty status should be brought about by agreement between the representatives of the American and of the Chinese peoples, and not by any process of repudiation or of violence on the part of those demanding such revision. The Government of the United States witnesses with particular concern the new and unwarranted exactions upon American trade and shipping, which are being put into force by those authorities now in control of the ports through which passes the bulk of our trade with China. There are involved new and burdensome surtaxes alike upon imports and upon exports, a new and very heavy special excise tax upon tobacco products, and an increase of 50 percent in the tonnage duties levied upon our vessels touching at Chinese ports. These exactions are not only violative of existing treaty provisions but unfair in the abruptness of their application and involving in fact, though not in terms, discriminations against various American industrial and agricultural products.

The American Government is constrained to state its protest against this one-sided attempt to alter the basis of those negotiations for treaty revision which it still looks forward to undertaking wherever practicable. Such disregard or repudiation of existing obligations cannot but impair the confidence and good will with which this Government desires to approach such negotiations."

MACMURRAY

893.512/599 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 11, 1927—7 p. m.

[Received July 11—3:05 p. m.]

720. My 708, July 9, noon. Following from American consul general at Shanghai:

"70, July 9, 6 p. m.

[1.] The following duties and surtaxes are being levied on imports and exports at Shanghai:⁴⁸

⁴⁸ No paragraph (b) in original.

- (a) The five percent or other duty provided by treaty;
- (c) On so-called luxury articles a further surtax of two and one-half percent, imposed by the Nanking Government, collected by the Surtax Revenue Department at Shanghai, and effective from July 4, 1927; it is this new luxury surtax of the Nationalist Government, as well as a large number of proclaimed and contemplated taxes at rates, against which the American Chamber of Commerce wishes to protest. My telegram number 66, July 6, 6 p. m., requested instructions as to the attitude to be adopted by American firms with respect to the payment of this tax.
- (d) On imported coal the special coal tax of 6 cents per picul or \$1.08 per ton imposed by the Financial Commissioner of Kiangsu Province, approved by the Nationalist Government, and effective from July 1, 1927; and
- (e) On imported cigarettes and tobacco the tobacco tax of fifty percent ad valorem, imposed by the cigarette and tobacco bureau for Kiangsu Province, approved by the Nanking Government, and effective from July 1st, 1927.

Subparagraph number 2 on exports: (a) The five percent or other duty provided by treaty; and (b) a surtax amounting to one-half of the existing customs export duty, imposed by the Nanking Government, collected by the Surtax Revenue Department, and effective from July 1st, 1927.

2. My telegram No. 65, July 5, 6 p. m., reported that C. C. Wu had told me that the Nanking Government proposed to abolish likin from August 1st, 1927, and to adopt a new ad valorem tariff of fifteen percent on ordinary imports and thirty percent and upwards on luxuries. These intentions appear to have been modified. In the course of a speech at a luncheon given by him yesterday to foreign correspondents and local newspaper editors Wu announced that likin would be abolished from September 1, 1927, and a national tariff put into effect '18 months from now.' He said that in the interim (presumably between the abolition of likin and the adoption of the national tariff) the loss of revenue is to be compensated for by raising the Customs duty to twelve and one-half percent on ordinary goods and that for goods classified as luxuries a graduated scale will be adopted. Any further information I may be able to obtain with respect to these proposals will be communicated promptly to the Legation.

3. As affecting the increased municipal rates it may be stated that the municipal contract for coal for lighting and other purposes is approximately 400,000 tons of coal per annum. The imposition of the coal tax alone will provide a revenue far in excess of the amount derived by the municipality from the two percent increase in the house rate. If these various surtaxes continue to increase, the municipality must necessarily increase the rates to meet the large amount paid in surtaxes and increased duties."

For the Minister:

MAYER

893.512/602 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 12, 1927—3 p. m.

[Received July 12—6:45 a. m.]

724. Legation's 720, July 11, 7 p. m. With reference to his inquiry as to the attitude to be taken toward the imposition of the luxury surtax Cunningham was instructed as follows:

"For your information it may be stated that luxury surtax comprising substantially the list tentatively agreed upon at the Customs Conference has been collected for some time generally believed [*sic*] in Northern ports under National control. The attitude of the Department has been that we should acquiesce tacitly in the collection of what is in substance equivalent of the Washington surtaxes.

3. [*sic*] The American Chamber of Commerce is of course within its rights in protesting against any taxation imposed in violation of treaty rights of American citizens. I do not, however, consider that the chamber would be well advised to protest against such taxation on imports as may be properly considered as the equivalent of the Washington surtaxes."

For the Minister:

MAYER

893.512/598 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 12, 1927—3 p. m.

283. Your 708, July 9, Noon.

1. The arbitrary levying by local authorities of taxes upon foreign trade in violation of the terms of existing treaties has been encountered in widely separated parts of China as described in paragraph 3 of your 116 of February 7, 9 a. m. Department indicated to you by its telegram No. 71 of February 24, 5 p. m., its readiness tacitly to acquiesce in the imposition by the Peking authorities of surtaxes equivalent to the so-called Washington surtaxes. In connection with the proposal of the Nationalist authorities at Hankow to impose a stamp tax, reported in your telegram No. 217 of March 14, 8 p. m., Department approved your action in instructing the American Consul General at Hankow to advise interested Americans that the Legation did not feel warranted in protesting against the collection of said taxes in the absence of any discriminatory features. The Department has also indicated to the Legation in its telegram No. 227 of May 20, 5 p. m.,⁵⁰ that it would raise no protest against the imposition by the Peking authorities of an additional

⁵⁰ *Post*, p. 434.

tonnage tax on American shipping for the purpose of raising revenue to support the Chinese foreign service abroad as reported by your telegram No. 551 of May 13, 1 p. m.⁵¹ In this matter you stated that assent would be conditional upon agreement on the part of the South not to make the collection of this tax by the North the occasion for hostile action in territory controlled by the Nationalists. Department has not been informed as to whether this tonnage tax has been actually imposed or not.

2. The Department has given careful consideration to your statement that "the time has come when an unequivocal announcement of our determination not to forego our rights unless and until they may have been modified by mutual consent should be made in behalf of our Government," and has read with care the draft announcement which you suggest will serve the purpose of an "authoritative protest against the illegal exactions being put into force against our trade" and have the "future value of giving definiteness to the various enunciations of our Government's policy with respect to the revision of the so-called unequal treaties."

3. After careful consideration of this proposed statement, and of the facts outlined in paragraph 1 above, the Department is not persuaded that such a statement in the name of the Government is advisable at this time because of the following consideration. Such a statement could be interpreted only in one of two ways, either that this Government intended to force compliance with the existing treaties on the part of the several *de facto* Chinese governments (which the Legation knows from Department's No. 61, of February 15, 4 p. m., that it does not intend to do), or that this Government is prepared forthwith to commence discussions with the *de facto* authorities at Nanking looking to the legalization of its decrees regarding taxes on Americans and their trade by the negotiation of new treaties (which the Department is not prepared to do as it is not convinced that the Nanking authorities are either in control of China or sufficiently representative of the Chinese people to bind them in the observance of new treaties).

4. The Department feels that the interests of American citizens and American trade will be better served if we proceed in the manner which has been followed in the past, namely, when protests are considered advisable, by filing formal protests locally with *de facto* authorities through our consulates, our merchants being advised, where compliance with the local tax regulations is necessary to the continuance of their business, to pay such exactions under protest. The Department believes that such protests invariably should be based

⁵¹ *Post*, p. 433.

on one or more of the following two grounds: (1) that the tax is contrary to existing treaty; or (2) that the tax discriminates against an American citizen or his interest.

KELLOGG

893.512/608 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 20, 1927—1 p. m.

[Received July 20—9:55 a. m.]

748. 1. Legation's 692 [691], July 3, noon, and 703, July 9, noon. Following from American consul general at Shanghai:

"July 19, 5 p. m. Several American tobacco companies have large cargoes of cigarettes on local docks awaiting import, Chinese surtax bureau having refused tender of five percent surtax and demanding fifty percent surtax. American companies liable to heavy loss storage charges and request definite statement of American Government in reference to this fifty percent cigarette tax as separate and apart from all other surtaxes. Does paragraph 4 of Legation's urgent 94, July 14, 4 p. m., apply to the fifty percent tax as well as to minor surtaxes? Am informed British American Tobacco Company is entering all import cargoes in bonded warehouses thereby deferring payment of any import surtax pending definite decision. American companies will appreciate prompt and definite advices."

The Legation's July 14, 4 p. m., paragraph 4, transmitted to Shanghai the Department's 283, July 12, 3 p. m., paragraph 4.

2. In accordance with my instructions Cunningham has not as yet filed protest with regard to new tobacco taxes. If your reply indicates that the Department's attitude toward cigarette tax is the same as toward other surtaxes (other than so-called Washington surtaxes) and that the Department's 283, July 12, 3 p. m., paragraph 4, is to apply to the fifty percent tobacco tax I purpose to instruct Cunningham to file formal protest.

MACMURRAY

893.512/608 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 21, 1927—4 p. m.

292. Your telegram 748, July 20, 1 p. m. Paragraph 4 of Department's 283 of July 12, 3 p. m. applies to tobacco as well as other taxes and you may instruct Cunningham accordingly.

KELLOGG

893.512/611: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 26, 1927—4 p. m.

[Received July 26—7:46 a. m.]

756. Legation's 684, June 29, 5 p. m. and subsequent telegrams. Following from American consul at Shanghai:

"July 25, 3 p. m. The consul general today received from the Minister of Foreign Affairs, Nanking Government, for transmission to the Legation, two formal despatches in Chinese and English copy addressed to the American Minister, one transmitting official proclamation in reference to increased tariff rates, abolition of likin and excise taxes, et cetera, and the second referring to application of customs revenues to foreign loans. Proclamation is similar to one which has been published in vernacular press although tables and classification of merchandise first definite information of this nature received. Unless Legation instructs otherwise, these formal communications will be retained by this consulate general without reply to Nanking Minister and forwarded to Legation in care of Consul Davis scheduled to sail for Tientsin on July 29th. A telegram summarizing tariff proclamation will be forwarded later today."

MACMURRAY

893.512/613: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 27, 1927—6 p. m.

[Received July 27—2:45 p. m.]

765. Legation's 756, July 26, 4 p. m. Following from the American consul general at Shanghai:

"July 27, 9 a. m.

1. The following supplements my No. 96, July 25, 3 p. m.⁵² The proclamation received from the Ministry for Foreign Affairs of the Nanking Government announces the promulgation of three laws effective September 1st this year, to wit: (a) The law on abolition of internal transit duties, (b) the provisional law on national import tariff, (c) the law on excise duty. Their provisions may be summarized as follows:

(a) Law abolishing internal transit dues. The following taxes are to be abolished: (1) Likin of all descriptions; (2) all native customs duties whether within or without the 50 li radius of the open ports, or in the interior; (3) all principal and miscellaneous levies on goods in transit; (4) transit dues in lieu of likin; (5) coast trade duty; (6) duty on goods from one Chinese port to another; (7) destination tax (*loti shui*).

(b) Provisional law on national import tariff. All imported goods shall, besides the treaty duty of five percent ad valorem,

⁵² See *supra*.

be liable to an additional duty which in the case of ordinary goods shall be seven and a half percent and in the case of luxuries shall be according to classification fifteen percent, twenty-five percent, and for alcoholic liquors and tobacco products fifty-seven and a half percent. Simultaneously the two and a half percent ordinary and luxury surtaxes are to be abolished. Prohibited articles, duty-free articles and specially exempted articles are to be treated in accordance with pertinent existing regulations. The law applies to imports over land frontiers.

(c) Excise duty. An excise duty is to be levied on all goods manufactured by the Chinese and foreign factories in China employing more than 10 workmen and equipped with electric, steam or hydraulic powered machinery. Rates of excise duty to be the same as corresponding rates of import duty on goods of the same or similar nature and description.

2. Am reliably informed that it is the intention of the Nanking authorities to collect the new import duties through the medium now employed to collect the import and export surtaxes; that an effort is being made to obtain favorable consideration of a rule to protect commercial contracts entered into on the basis of existing duties; and the abolition of taxes on goods in transit paid to the Maritime Customs will involve a loss of revenue to the Customs which is estimated at Nanking million Haikwan taels per annum and which may seriously impair the ability of the Customs to serve the loans secured on its revenue.

3. The Nanking Government is putting the abolition of treaties affecting the Customs squarely and definitely up to the treaty powers. If the American Government permits the arbitrary enforcement of these duties and regulations upon American goods and firms, it is certain that Nanking will impose taxes in complete disregard of all treaty rights and without limitation as to the amount and without notice. It is strongly urged that the American Government make a definite announcement to all *de facto* governments in China that America will not permit Nanking or any other government defiantly to disregard her treaty rights; that at least in important and accessible treaty ports Americans are to be protected in these rights; and that unless the levying of extra treaty taxes ceases, American merchants will be instructed to pay to the consulates, for eventual delivery to the Customs, all treaty taxes plus Washington and export surtaxes and that foreign vessels and cargo will be protected against any attempt to interfere with them by the Chinese authorities. Such announcement, in my opinion, would secure these rights without active use of force but, be that as it may, failure to take some action will be suicidal to the American commercial and industrial interests. I cannot see this entering wedge advanced without expressing the foregoing views with the greatest emphasis and resolve. The initiative should be taken by our Government and should not be left to the discretion of the individual American merchants who are helpless without American Government backing."

893.512/613: Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 28, 1927—3 p. m.

297. Your 765, July 27, 6 p. m. The Department fully appreciates the seriousness of the threatened levy of taxes and would be pleased to have your opinion on the following:

If this Government makes a definite announcement that it will not permit the Nanking or any other government to disregard its treaty rights, as suggested, and such notice fails to produce the desired effect what measures do you contemplate and recommend the Government should take to prevent the levy of these taxes in all parts of China?

KELLOGG

893.841 Surtax/13: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 30, 1927—5 p. m.

[Received July 30—8:35 a. m.]

776. Your telegram No. 297, July 28, 3 p. m. In the contingency stated I should strongly recommend the procedure outlined in fourth, fifth and ninth paragraphs of the message from Senior Consul at Shanghai to Senior Minister here (my telegram No. 773, July 29, 5 p. m.).⁵³ I believe that such action by the interested powers in the test case at Shanghai would halt just as [*sic*] the present general tendency to defy treaty; but if necessary substantially similar action could be taken at other ports.

MACMURRAY

893.512/637: Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, August 17, 1927—10 p. m.

[Received August 17—6:40 p. m.]

816. 1. Following from American consul general at Shanghai:

"August 17, 10 a. m.

(1) In view of the urgent necessity of taking further steps forthwith to dissuade the Chinese authorities from proceeding with their 1st of September programme, the consuls general for America, France, Great Britain, and Japan, without wishing in anyway to forestall the decision of the interested Ministers on the senior consul's telegram of the 9th August, urge that they be given immediate authority to initiate informal conversations with the local Chinese

⁵³ *Post*, p. 442.

authorities with a view to securing abandonment or at least postponement of the Nanking taxation proposals.

(2) At the same time we propose, unless otherwise instructed, to allow our merchants to take any steps which legal opinion may show to be open to them, to test at once by interlocutory proceedings in the courts the right of foreign-owned bonded warehouses to detain in bond cargo on which the legal duties have been tendered and refused. In particular the special taxes on wine and cigarettes would seem to be open to this form of attack.

(3) On the Chinese side there is obvious nervousness as to what further steps we intend to take, while on the foreign side we feel bound to state that the demand for action becomes daily more insistent as the crisis approaches, threatening destruction of the trade and industry of Shanghai.

(4) In explanation of paragraph 2 it should be stated that the French consul general is permitting suit to be filed in the French court and it is believed that a temporary injunction will be issued against the foreign-bonded warehouse keeper and similar proceedings are taking place in the Japanese court today. Neither British nor American consul general is satisfied that such procedure would be successful in his court. However this is being investigated by the legal fraternity.

(5) Paragraph 3 (1 ?) is a repetition of the first sentence of paragraph 9 of my telegram of July 27, 4 p. m. to the Senior Minister on which subject probably the Japanese Minister will be able to throw considerable light. Paragraphs numbers 4 and 5 are my comments on the preceding ones."

2. To which I have replied as follows:

"August 17, 10 p. m. Your 139, August 17, 10 a. m.

(1) Regarding first paragraph, it was the sense of a meeting this morning of the Chiefs of Mission concerned that the informal conversations you propose would not be tactically wise at this time. It would seem more advantageous not to dispel by informal conversations on the subject of the illegal taxation the nervousness which you state is obvious on the Chinese side as to what further steps the foreigners intend to take in the matter.

(2) Regarding second paragraph it is my judgment that you should take no position whatsoever neither encouraging nor opposing in regard to American citizens having recourse to legal steps in respect of the unlawful taxation. I have however submitted this question to the Department for instructions which you should await before taking any action."

3. I earnestly solicit the Department's early instructions.

MAYER

893.512/637: Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, August 18, 1927—2 p. m.

318. Your 816, August 17, 10 p. m. Action outlined in your telegram of August 17, 10 p. m., to Consulate at Shanghai is approved

by the Department. Department agrees with you that Consul should not intervene in question of legal remedies.

KELLOGG

893.512/638 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, August 18, 1927—6 p. m.

[Received August 18—10:55 a. m.]

817. Legation's 765, July 27, 6 p. m.

1. Following from American consul at Shanghai:

"August 17, 5 p. m.

[(1)] Last evening Mr. George Sokolsky, an American citizen, telephoned that Dr. C. C. Wu would be glad to have a conversation with me in regard to the proposed September tariff. I consented informally and unofficially to see him. As a result of this morning's conference he made the following conclusions:

"First, The proclaimed duties will become effective September 1st;

"Second, That should protestations [against] particular duty threaten the existence of a foreign business and complaint be made to the Ministry of Finance it will remedy the matter;

"Third, Nanking will agree to the 'Peking tariff'.

"I inferred however that this will be done only if protest is made against proposed Nanking tariff.

"(2) Dr. Wu also stated that already the Nanking Government had arranged to admit under the old duty all cargo covered by a bill of lading antedating September 1st, 1927.

"(3) Dr. Wu was greatly disappointed and possibly perturbed that individual foreigners had not approached him for modification of tariff. He manifested marked concern over the possibilities of the establishment by the foreign powers of a 'consular customs house' here.

"(4) He requested in conclusion that the foregoing be brought to the attention of the American Minister. Shall I inform my British, French, and Japanese colleagues of this interview?"

2. I am replying as follows:

"August 18, 5 p. m. Your August 17, 5 p. m. (1) I see no objection to your informing your colleagues regarding the interview reported therein unless you promised C. C. Wu to the contrary."

3. C. C. Wu's remarks in conjunction with paragraph (3) of Mr. Cunningham's telegram would seem to indicate a weakening in a determination to push through the illegal exactions at Shanghai even assuming that Wu still can speak authoritatively. A firm attitude on the part of the foreign powers concerned would seem therefore all the more called for at this juncture whether the so-called Nanking

regime exists any longer with as uncertain an authority as heretofore or, should a new regime come into being, composed of the remnants of Nanking and Wuhan.

MAYER

893.512/639 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, August 19, 1927—1 p. m.

[Received August 19—6:19 a. m.]

819. Legation's 765, July 27, 6 p. m.

1. Cunningham has requested, August 17, 3 p. m., instructions "to protest individually against all the September 1st taxes," stating his belief that such protest would have a salutary effect upon the Chinese authorities. I request the Department's approval of the foregoing.

2. I am replying as follows:

"I assume that the September 1st taxes to which you refer, are those described in your 97, July 26 [27?], 9 a. m. If you consider that a protest against these taxes would have a salutary effect upon the Chinese authorities you may, at your discretion, make such a protest either individually or jointly with your colleagues."

MAYER

893.512/639 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, August 19, 1927—4 p. m.

320. Your 819, August 19, 1 p. m. Department approves your reply to Shanghai as set forth in paragraph 2.

KELLOGG

893.512/654 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, August 29, 1927—noon.

[Received August 29—5:05 a. m.]

838. Legation's 817 [816], August 17, 10 p. m. Following from American consul at Shanghai:

"August 28, 10 a. m.

1. The Japanese and French courts have granted injunctions prayed and yesterday Japanese godown keeper released wine upon court order.

2. British court gave judgment in favor of plaintiff and issued order for delivery of goods."

MAYER

893.51/5048 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, August 31, 1927—noon.

[Received August 31—6:36 a. m.]

846. 1. Following from American consul at Shanghai:

“August 30, 10 a. m.

(1) The Shanghai Foreign Exchange Bankers Association brought to the attention of the consular body a recent notice issued by the Nanking authorities calling upon all holders of Chinese Government National Loan Bonds to register their bonds at an office established in Shanghai for that purpose. The notice stipulated that registration would be allowed only on condition that each holder subscribe for an amount of the 60 million salt surplus Treasury bonds equal to ten percent of the nominal face value of the bonds presented for registration. The time limit for such registration is September 30, 1927, after which all unregistered bonds will be declared null and void.

(2) The association states that many of its members hold bonds on behalf of customers and in some cases these bonds are lodged in Europe or America thereby necessitating immediate action, and it requests an early opinion from the consular body as to whether the demand of the Nationalist Government must be acceded to by it or not.

(3) American bankers are not substantial holders of these bonds but are interested in protecting the interests of Chinese correspondents who are large holders.

(4) The consular body decided to inform the Nanking Government that the members of the consular body cannot admit the legality of such a procedure and that they reserve the right to claim compensation for any loss suffered by their nationals.

(5) It is considered that the above action is but an ordinary consular function to take all necessary steps to protect American interests; but, if a contrary opinion is held by the Legation or the Department, proper instructions are requested since the communication to the Nanking authorities will not be forwarded before September 3rd.”

2. Nanking Ministry of Finance on June 28 issued an order that the district salt inspectorates should cease to function as from July 1st. This action was followed by an announcement of the flotation of a loan of 60 million dollars to be secured on the salt revenues of Kiangsu and Chekiang. The proposed loan was at once protested by order of the chief salt inspectorate at Peking. Mail despatch on the foregoing, dated August 2nd, now en route to the Department.

3. I am informing Cunningham that his telegram is being repeated to the Department. I concur in his views that the proposed protest is necessary as a precautionary measure to avoid the possibility of any impairment of American interests through a failure to go on record against this confiscatory action of the Nanking authorities. It is re-

spectfully suggested that the Department communicate direct to Cunningham and repeat to the Legation should it desire him to act differently.

MAYER

893.51/5048 : Telegram

The Acting Secretary of State to the Chargé in China (Mayer)

WASHINGTON, September 1, 1927—3 p. m.

331. Your 846, August 31, noon. Government of the United States does not admit efficacy of proposed action to render null and void bonds issued by Chinese Government and intends to insist that contractual rights of American bondholders be respected.

Bankers Association may be informed of Department's attitude but bondholders should determine for themselves attitude they will take toward notice requiring registration and subscription salt bonds.

CASTLE

893.512/661 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 1, 1927—3 p. m.

[Received September 1—8:20 a. m.]

850. Legation's 839, August 29, 4 p. m. and 840, August 29, 5 p. m.⁵⁴

1. American consul, Shanghai, reports having received following communication from the Minister of Foreign Affairs addressed to me stating in translation:

"I have the honor to inform you that the Nationalist Government has now decided, in view of existing circumstances, to temporarily postpone the enforcement of (a) law on the abolition of internal transit duties; (b) provisional law on national import tariff; and (c) law on excise duty."

2. With reference to paragraph 2 of my telegram first mentioned, Cunningham has telegraphed that the letter from Wu to the Legation has been mailed. The question of a reply was informally discussed at a meeting of Heads of Legations this morning and it was agreed to await receipt of letters by the next steamers [apparent omission] concerned before this matter should be decided. The sense of the meeting, however, in which I concur, was that reply was unnecessary and inexpedient.

3. American consul, Canton reports that he has been officially informed of postponement of new taxation at Canton.

4. Japanese Minister has official information that new taxes also postponed at Swatow.

MAYER

⁵⁴ Neither printed.

893.512/667 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING [undated].

[Received September 10, 1927—10:16 a. m.]

868. Legation's 838, August 29, noon.

1. Following from the American consul at Shanghai:

"September 9, 2 p. m. Referring to my telegram of August 27, noon. The decisions are being construed to apply to all nontreaty taxes. Tobacco products and wines arriving in British vessels are being delivered by British godown keepers to British consignees after the treaty import duty plus wharfage and conservancy dues plus the so-called Washington surtaxes have been tendered to and refused by the Customs bank and deposited with the British consulate general. Delivery is made upon presentation of the shipping documents endorsed by the British consulate general to show deposit of duties and dues and can be effected only before cargo is placed in bonded godown, that is, within fourteen days after arrival; the court decision did not reach case of this kind in bonded godowns, which are under the joint control of the godown keeper and the court. Similar procedure is followed by the Japanese who, however, under their court decision are not required to tender or deposit the surtaxes but only the treaty import duty and wharfage and conservancy dues.

"Since the British court decision, the British godown keepers have agreed to release cases of this kind if the consignee is a subject of an extraterritorial treaty power, provided the shipping documents are endorsed by the British consulate general. The British consulate general will endorse the documents if there is attached thereto a copy of a letter addressed by the consul of the consignee's nationality to the Commissioner of Customs stating that in view of the refusal of the Customs bank to accept the amounts due on a specific cargo mentioned on the duty memorandum, the money has been deposited in the consignee's consulate, where it is held at the disposition of the Commissioner of Customs. Japanese godown keepers are prepared to release cargo under similar circumstances and upon the same conditions except that, in view of the decision of the Japanese court, the consignee need not deposit the surtaxes.

"The Tobacco Products Company have requested me to accept on deposit the treaty duty, wharfage and conservancy dues and Washington surtaxes so that they may obtain delivery, in the manner described above, of cargo recently arrived in a British steamer and stored in a British godown. They were informed that this was impossible under the Department's instructions.

"Longfellow and Adams, an American firm, have filed suit in the United States Court for China against the Robert Dollar Company, demanding that the Dollar Company release cargo on which the treaty duty, wharfage and conservancy dues, and Washington surtaxes have been tendered to and refused by the Customs bank. This suit affects cargo consigned to an American firm, imported in an American vessel, and stored in an American godown. The court's decision is expected tomorrow.

"The Tobacco Products Company desired that it be pointed out that their inability to deposit with the consulate general the treaty duty, wharfage and conservancy dues, and Washington surtaxes which have been or may be tendered to and refused by the Customs bank places an impossible handicap upon them as they will be obliged to pay an additional fifty percent import duty which their British competitors do not pay. All other American and Philippine tobacco companies are faced with same difficulty.

"Permit me to point out that while the clearance of wines is of no great American concern, it is a serious matter to the tobacco growers and manufacturers of the United States and the Philippine Islands that their products should be subjected to the fifty percent discriminating duty. Permit me further to observe that if the decision of the American court is the same as those of the British, French and Japanese courts, failure to make provision for the deposit with the consulate general by importers of legal duties, as indicated above, will operate to prevent shippers from despatching tobacco products and wines to Shanghai by American steamship lines because import duties thereon will be, respectively, fifty and thirty percent greater than when shipped by other lines. Local importers in self-defense are already diverting all such shipments to Japanese, British and French steamers, and I am informed that the diversion is not alone of wine and tobacco shipments but also of general cargo, for reasons which are obvious. A general increase of import duties, such as has been recently threatened, would undoubtedly result in a wholesale diversion of Shanghai cargo from American to other steamship lines.

"I am not unmindful of the Department's instructions embodied in the Legation's telegram of August 1, 7 p. m., but at the request of American importers and in view of the serious discrimination against American firms and shipping this is considered a matter which should be brought to the attention of the Department for its information and consideration. The Department, in issuing the instructions referred to, evidently had in mind the possible effect of clearance of vessels by consular clearance only, while the present action is an effort to combat nontreaty duties after the court has decided that cargo is illegally detained. In asking that they be allowed to deposit with the consulate general, to [*for?*] the disposition of the Customs, all legal duties, wharfage and conservancy dues, and Washington surtaxes, American merchants and shipping companies consider that they are seeking only the same facilities that are being enjoyed by competitors of other nations.

"There remain of the illegal taxes only the tobacco products tax reported in my telegram of June 30, 4 p. m.,⁵⁵ the wine tax reported in my telegram of August 16, 3 p. m., and the coal tax."

2. The court's decision will be transmitted as soon as received.

MAYER

⁵⁵ See telegram No. 689, July 1, from the Minister in China, p. 391.

893.512/667 : Telegram

*The Acting Secretary of State to the Consul General at Shanghai
(Cunningham)*

WASHINGTON, September 17, 1927—4 p. m.

Your September 9, 2 p. m. to the Legation.⁵⁶ Telegraph whether other consulates are actually receiving treaty duties and other charges and if so the procedure adopted for their safekeeping and final accounting to Chinese Government.

Do you consider it feasible for the Consulate General to perform similar service for American citizens and can such services be performed without ultimately having to provide facilities for the performance of customs functions by the Consulate General.

Since the so-called Washington surtax is not regarded by this Government as authorized, would British authorities release American goods stored in British godowns on your certificate that treaty duties, wharfage and conservancy dues had been deposited with you? What is status of suit filed in United States Court for China mentioned in your telegram under acknowledgment?

CARR

893.512/672 : Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary
of State*

SHANGHAI, September 20, 1927—4 p. m.

[Received September 20—2:45 p. m.]

Your September 17, 4 p. m.

1. British, Japanese, French and other consulates are now accepting deposit of import duties and other charges tendered to and refused by the Customs bank on consignments of tobacco products, wines, beer and liqueur as condition precedent to release of such cargo by godown keepers of their nationality.

2. Duties so accepted, for example by the British consulate general, are deposited in local branch of British bank, in a special account in the name of the consul general. In each instance the Commissioner of Customs is informed by the consulate general of the tender, refusal and deposit of the duties and advised that they are held at his disposition. The duty memoranda, which are issued by the Customs and show the treaty import duty and the wharfage and conservancy dues, are retained by the consulate general for accounting purposes. It is naturally impossible to make in advance any arrangement for final accounting to the Chinese Government. When the Customs indicate their willingness to accept the duties so deposited there should

⁵⁶ See *supra*.

be no difficulty in accounting for them from the duty memoranda and other records kept by the consulate general.

Duties accepted by the Japanese consulate general, which do not include Washington surtaxes, are deposited similarly in local branch of Japanese bank in special account in the name of consul general.

3. I consider it entirely feasible for this consulate general to perform similar service for American citizens and to accept on deposit the treaty import duty and wharfage and conservancy dues of [apparent omission] after such duty and dues have been tendered to and refused by the Customs bank. The amount of such duty and dues is determined by the Customs and evidenced by a memorandum issued by the Customs as in the case of the tonnage dues. If however the Customs do not continue to function in this respect it is believed that the difficulty, which I do not regard as insuperable, could be met since the consulate general would be able to draw upon the Chamber of Commerce for experts in appraising merchandise, and warehouses could be secured in the same manner as by the Customs at present.

4. The British authorities require that British firms should deposit the amount of the Washington surtaxes in addition to the treaty import duty and wharfage and conservancy dues. The acting British consul general has informed me that they would require assurances that similar duties had been deposited with the consulates concerned by foreign (non-British) importers desiring the release of goods in British godowns. Release could not be effected upon the deposit of only the treaty duty and wharfage and conservancy dues; the Washington surtaxes must also be deposited.

5. In strictest confidence, the United States court have not yet decided the cargo [*case?*] referred to. Commissioner Lurton conversed with me yesterday and while he does not forecast his decision I gained the impression that he considers the court is without jurisdiction and since this plea has been raised he must consider it.

The British case was not contested by defendant warehouseman who, rather, acquiesced in the petition. The petition of the American plaintiff raised specific questions which the court must consider, while the British petition was a general one. Repeated to Legation.

CUNNINGHAM

893.512/672 : Telegram

*The Acting Secretary of State to the Consul General at Shanghai
(Cunningham)*

WASHINGTON, September 23, 1927—2 p. m.

Your September 20, 4 p. m., paragraph 5. Telegraph following:

(1) Character of proceedings and specific action requested by plaintiff together with names and nationalities of all parties;

(2) All essential facts on which proceedings are based including description of demand, if any, made on godown keeper and his reply prior to institution of legal proceedings;

(3) Whether suit is being contested by defendant and, if so, on what ground.

When decision rendered telegraph concise statement of its effect and grounds on which predicated.

CARR

893.512/677 : Telegram

The Consul General at Shanghai (Cunningham) to the Secretary of State

SHANGHAI, September 24, 1927—8 p. m.

[Received September 24—5:30 p. m.]

Department's telegram of September 23, 2 p. m.

1. The suit referred to is described in paragraph 4 of my telegram of September 9, 2 p. m. to the Legation⁵⁷ which was not repeated to the Department by me. It is an action brought in the American Consular Court at Shanghai by Longfellow and Adams, Incorporated, against the Robert Dollar Company. Plaintiff and defendant are recognized American corporations. Action was brought to compel defendant to deliver to plaintiff 25 cases of beer consigned to plaintiff imported in defendant's steamship and discharged into and now remaining in defendant's godown.

2. The essential facts are as follows: Twenty-five cases of beer consigned to plaintiff were brought from Manila to Shanghai in defendant's steamship *President Pierce* and were discharged into defendant's godown, where they are now; in the presence of an officer from this consulate general plaintiff tendered to the Customs bank the treaty import duty plus the two surtaxes of two and a half percent each plus the wharfage and conservancy dues on this shipment; the bank refused to accept payment of such duty, surtaxes and dues, or to receipt the agencies' memorandum, unless and until there was also paid to it the illegal thirty percent stamp tax imposed effective August 11th by the Nanking authorities on imported foreign wines and liqueurs; plaintiff declined to pay this stamp tax; plaintiff advised defendant of the tender and refusal of the duty, surtaxes [and] dues and demanded delivery of the beer; defendant refused to deliver beer; plaintiff thereupon filed its suit against the defendant in the American Consular Court, depositing with the court the duty memorandum and import application and the duty, surtaxes and dues tendered to and refused by the Customs bank; plaintiff's petition prayed for an order directing defendant to deliver the beer to plaintiff and for

⁵⁷ See undated telegram No. 868 from the Chargé in China, p. 408.

such other and further relief as may be just and equitable in the premises, or for the value of the beer, which was stated to be 156 gold dollars; the amount of duty, surtaxes and dues tendered, refused and deposited is 14 taels, 45 tael cents.

3. Defendant contested the suit on the ground that it had given to the Chinese Maritime Customs a written undertaking not to deliver to consignee or owners goods on which customs duties had not been paid.

Secondly and principally on the ground that the court had no jurisdiction of the subject matter of the action, which was described in the defendant's answer as "a dispute between plaintiff and the Chinese Maritime Customs regarding the amount of customs import duties due, owing and payable by plaintiff to the Chinese Maritime Customs under and by virtue of the treaties existing between China and the United States." In support of this plea the defendant contended that the court was a court of limited jurisdiction; that its jurisdiction is defined by the treaties between China and the United States and the acts of Congress enacted for the purpose of enabling the Government of the United States to put such treaties into operation and effect; that by virtue of article 27 of the treaty of 1858⁵⁸ the civil jurisdiction of the court is limited to questions of personal property rights arising between citizens of the United States [in] China and to controversies occurring in China between citizens of the United States and subjects of any other governments; that neither under this nor any other treaty between the United States and China has the court jurisdiction of any controversy arising in China between the Chinese Government as such and citizens of the United States where the subject matter of such controversy is exclusively and peculiarly a matter of treaty between China and the United States; and that the right of the Government of China to levy and collect customs duties upon goods imported into China by citizens of the United States and the obligation of citizens of the United States to pay such duties is exclusively a matter of treaty between the respective Governments of the United States and China.

4. The court's decision today held that it had no jurisdiction and dismissed the plaintiff's petition.

The court stated that both plaintiff and defendant were within their rights, that the defendant was bound by treaty and its undertaking to the Customs not to deliver dutiable cargo to consignees until such cargo had been cleared by the Customs and [had] done no wrong in refusing to deliver the beer in question to the plaintiff; and that the plaintiff had attempted to pay all and more than all the duties stipu-

⁵⁸ Treaty of peace, amity, and commerce between the United States and China, signed at Tientsin, June 18, 1858, Malloy, *Treaties*, 1776-1909, vol. 1, pp. 211, 220.

lated by the treaties in force between the United States and China.

The court held further that the direct cause of the controversy was the violation of existing treaties between the United States and China by the factions in charge of, or having authority to control, the Chinese Maritime Customs at Shanghai, who, by endeavoring to exact duties beyond those stipulated in the treaties, prevented the plaintiff from receiving his merchandise unless these exactions were met; and that the court had no jurisdiction over the persons in charge or control of the Customs or over the principal question involved in this suit, to wit, the violation of treaties which it declared to be a purely political one. The court said, in conclusion, that it was of the opinion that "the main question herein involved develops into a purely political one, and must be settled by the executive department of our Government, and that it belongs to diplomacy and not to the administration of the law. Whether or not our executive department chooses to settle this question, or to disregard it, is not within the purview of this court. The plaintiff must look to the executive department for such relief as it may deem itself to be entitled to."

The foregoing summarizes Lurton's lengthy decision as concisely as possible, omitting several important statements which however do not modify the conclusions enumerated.

5. The conduct of this case shows a complete lack of cooperation of litigants and attorneys who really seek the same object, namely, the mutual protection of American shipping and commerce against the illegal exactions of the Nationalist Government. A further telegram will follow setting forth fully the practical effects of the decision, which are that relief cannot be found in a suit at law but, as the court's opinion emphasizes, rests entirely with the Department.

Repeated to the Legation.

CUNNINGHAM

893.512/678 : Telegram

The Consul General at Shanghai (Cunningham) to the Secretary of State

SHANGHAI, September 26, 1927—4 p. m.

[Received September 26—12:12 p. m.]

In amplification of my telegram of September 24, 8 p. m. and attempting to make clear the local position, the following is submitted:

1. Tobacco products, wines and liquors imported in Japanese vessels are released upon deposit with consular officials of the authorized treaty duties only.

2. The same merchandise imported in British vessels is cleared upon deposit of treaty duties and Washington surtaxes.

3. The same merchandise when imported in American vessels pays all of 2 plus fifty percent *ad valorem* on tobacco products and thirty percent on wines and liquors. Permanent competition under this handicap is impossible.

4. American consignees are unable to secure benefits of 1 or 2 because the American consul general is not permitted by the Department to receive in trust of Customs the import impositions.

5. Many, and it is believed all, other extraterritorial consular officers are authorized to extend that assistance to their nationals importing merchandise so that they may have an equal opportunity with their competitors.

6. Amplifying paragraph 5 of my September 24, 8 p. m., the decision continues an insuperable handicap on American shipping which if not remedied by the Department will make it unprofitable for it to operate at this port.

7. Commissioner Lurton stated in his decision that relief lies with the executive branch and diplomacy. In view of recent developments herein and heretofore stated, I again urge with all respect and earnestness that I be allowed to receive, in trust, treaty duties, to advise the Customs that I have done so, and to inform American shipping companies and warehousemen that there is no objection to their releasing the merchandise.

8. I know of no other way to place American shipping and importers upon an equality in Shanghai with competitors of other nationalities. American shipping has lost much in prestige and freight because I have been unable to extend that protection which my colleagues are extending. As stated in my September 9, 2 p. m.,⁵⁹ to the Legation, the cancellation of freight by American lines is not confined to tobacco and wines, but extends to general cargo; and I find that already local firms have cabled their connections not to ship to Shanghai by American vessels.

9. In reply to suggestion that [merchandise] so cleared may possibly be treated as contraband when it leaves the Concession, I may state that no difficulty has, to my knowledge, been placed in the way [of] the release, movement, or disposition of such merchandise because of the manner of its clearance. It is certain that there will be no discrimination against American merchandise in this respect.

10. An early and liberal authorization to deal with American-borne merchandise, as in paragraph number 1, when so requested by the importer will go far towards placing American ships and importers on an equality with their competitors. It will also, in my opinion, do much to bring the Nationalists to reason, to cause them to withdraw the few remaining unauthorized import duties, to restrain them from

⁵⁹ See undated telegram No. 868 from the Chargé in China, p. 408.

imposing further illegal impost, and to induce them to approach the question of increases in duty and taxes in an orderly and legal manner, a consummation greatly to be desired.

11. Reference is made to my telegrams to the Department of September 22, 10 a. m.,⁶⁰ and September 20, 4 p. m.; and to the Legation of September 16, 3 p. m.,⁶⁰ September 9, 2 p. m.,⁶¹ August 17, 10 a. m.,⁶⁰ and July 27, 4 p. m.⁶⁰ Repeated to the Legation.

CUNNINGHAM

893.512/679 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 28, 1927—3 p. m.

[Received September 28—10 a. m.]

893. Referring to Shanghai consul general's 179, of September 26, 4 p. m.⁶² I fully share Cunningham's opinion regarding the difficult and disadvantageous position in which American business interests at Shanghai are placed. It is respectfully urged that the Department approve Cunningham's suggestion or authorize some other equally effective steps for their relief. This will also assure us in our efforts generally to maintain our treaty rights in China.

MAYER

893.512/678 : Telegram

The Acting Secretary of State to the Consul General at Shanghai (Cunningham)

WASHINGTON, September 28, 1927—5 p. m.

Your September 26, 4 p. m. In view of the plea filed by Dollar and Company and decision of Commissioner thereon and bearing in mind that the Department has no authority to compel godown keeper to release cargoes have you any assurance that action recommended in paragraph 7 of telegram under acknowledgment would be effective to release goods stored in American godowns.

If American godown keepers should refuse to release goods on your certificate would that refusal affect decision of Foreign Consulates to release goods stored in Foreign Godowns on your certificate.

If your certificate were to be respected only by Foreign godown keepers would not that fact result in diverting to foreign shipping companies all of the China trade in tobacco and liquors.

Does Longfellow and Adams contemplate appeal from Commissioner's decision that court has no jurisdiction.

⁶⁰ Not printed.

⁶² See undated telegram No. 868 from the Chargé in China, p. 408.

⁶¹ See telegram of the same date from the consul general to the Department, printed *supra*.

In view of Commissioner's decision the Department considers that his comments on the merits have no bearing on the case.

CARR

893.512/680 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 29, 1927—11 a. m.

[Received 12:55 p. m.]

896. The Heads of Legation have been approached by the Ministry of Foreign Affairs through the Senior Minister regarding the reintroduction of the one-half of one percent surtax on imports and exports for famine relief for one year, to be used one-half for famine relief and one-half for payment of arrears due League of Nations. Respectfully request authorization to fall in with any such proposal which may be approved by all powers concerned.

MAYER

893.512/681 : Telegram

The Consul General at Shanghai (Cunningham) to the Secretary of State

SHANGHAI, September 30, 1927—4 p. m.

[Received September 30—10 a. m.]

Referring to Department's September 28, 5 p. m. American shipping companies and warehousemen have agreed to release cargo in accordance with paragraph 7 of my September 26, 4 p. m.

2. There is no reciprocal understanding with foreign consulates and, inasmuch as American warehousemen have agreed to release, the questions raised in the Department's September 28, 5 p. m., in paragraphs 2 and 3 do not arise. The importance of my being authorized to accept these duties is covered in my telegram of September 26, 4 p. m.

3. Longfellow and Adams have appealed from the Commissioner's decision but will not pursue such appeal if Department authorizes me to accept duties in accordance with paragraph 7 of my September 26, 4 p. m. Repeated to Legation.

CUNNINGHAM

893.512/680 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, October 1, 1927—4 p. m.

354. Your 896, September 29, 11 a. m. You are authorized to interpose no objection to the proposed surtax provided other interested Legations take similar stand.

KELLOGG

893 512/681 : Telegram

*The Secretary of State to the Consul General at Shanghai
(Cunningham)*

WASHINGTON, October 1, 1927—6 p. m.

Your September 30, 4 P. M. Department has no objection to your taking, on your responsibility, the action outlined in paragraph 7 of your September 26th, 4 P. M., on condition that in each case the treaty duties are actually tendered to and refused by the customs authorities, and that the usual form of duty memorandum is delivered to you.

Telegraph whether, on this understanding, you are prepared to take the action suggested and if so mail detailed report of all the steps taken to make the action effective.

KELLOGG

893.512/686 : Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary
of State*

SHANGHAI, October 3, 1927—5 p. m.

[Received October 3—7:13 a. m.]

Referring to Department's October 1, 6 p. m., I am preparing to undertake to carry out recommendations contained in paragraph 2 [7] of my September 26, 4 p. m. and am so informing American warehousemen as well as importers in American ships. Full report by mail. Repeated to the Legation.

CUNNINGHAM

893.512/687 : Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary
of State*

SHANGHAI, October 4, 1927—11 a. m.

[Received October 4—8:35 a. m.]

Referring to paragraph 2 of my telegram of September 26, 4 p. m. and paragraph 4 of my September 20, 4 p. m., British consul general has now informed me that American importers may obtain release of tobacco products, wines, and liquors from British godowns upon deposit with me of only the treaty duty and wharfage and conservancy dues and that they need not, as previously indicated, deposit the two surtaxes. Repeated [to] the Legation.

CUNNINGHAM

893.512/686 : Telegram

*The Secretary of State to the Consul General at Shanghai
(Cunningham)*

WASHINGTON, October 4, 1927—6 p. m.

Your October 3, 5 p. m. and Oct. 4, 11 a. m. In view of paragraphs 1, 7 and 10 of your September 26, 4 p. m. and Department's October 1, 6 p. m., it is not clear from the telegrams under acknowledgment whether you intend to accept from importers of goods stored in American godowns surtaxes in addition to treaty duties. Please telegraph explanation.

KELLOGG

893.512/688 : Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary
of State*

SHANGHAI, October 5, 1927—2 p. m.

[Received October 5—6:02 a. m.]

Your October 4, 6 p. m. Will accept only treaty duties of five percent plus wharfage and Whangpoo Conservancy taxes.

CUNNINGHAM

893.512/690 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 7, 1927—9 p. m.

[Received October 7—4:27 p. m.]

914. 1. Following from American consul general, Canton,⁶³ which was not repeated to Department awaiting clarification not yet received.

"September 30, 4 p. m. Local authorities have announced the collection of ten percent of the surtaxes of two and a half percent which were originally assessed to pay off Canton Hong Kong strikers. The original two and a half surtax was abolished but it would appear that the strikers have not received the proceeds. The usual formal protest which I am making will be ineffective unless the Legation is prepared to take other measures such as the releasing of seized cargoes by our Navy. Suggest Legation consult British Legation at Peking."

2. This morning Japanese Minister called meeting consisting of himself, British and French Ministers and myself to consider situa-

⁶³ Jay C. Huston, consul in charge, in absence of Consul General Douglas Jenkins.

tion. Inquiry was made of me whether American Government would be willing, should necessity arise, to put into effect at Canton consular clearance procedure adopted at Shanghai. I stated that I could not give definite answer and that anyway I felt position at Canton was not similar to that at Shanghai; that without serious consideration and further information from American consul at Canton I was not prepared recommend adoption there of consular clearance procedure unless it was prepared for eventual force protective measures which my instructions clearly did not endeavor visage [*envisage*?].

3. I was forced to leave meeting at this juncture owing previous engagement. After my departure three Ministers concerned decided on the following action.

(1) Telegraphic instructions to their respective consuls general at Canton to proceed together to see the local authorities and make representations in strong terms, warning them that the import tariff must not be arbitrarily altered without the prior consent of the powers. The consuls general to use such terms as, after consultation with one another, they consider best.

(2) To inform their respective Governments of the action taken and to recommend that if unsuccessful they should fall back on the procedure adopted at Shanghai.

4. I was asked if I could join in above telegraphic instructions. In view of your 304, August 2, 1 p. m.,⁶⁴ and similar directions, I did not feel I could as I was apprehensive that they might convey impression that they authorize adoption of threatening attitude with implication of use of force particularly in respect of the last sentence. British Minister with whom I have just discussed the matter assures me to the contrary but in order to be entirely safe I decided to instruct American consul at Canton as follows:

"October 7, 6 p. m. Your September 30, 4 p. m.

Paragraph number 1. You may join with your consular colleagues concerned in protesting against any arbitrary alternation [*alteration*?] of the present import tariff without the consent of the powers. You should not in any circumstances however join in any representations which would threaten or imply the use of force by the United States in support of treaty rights.

Paragraph number 2. Please telegraph me at once in full your comment on the feasibility of adopting at Canton the procedure now in force at Shanghai in respect of consular clearances in the event your protest [is?] unsuccessful."

5. I trust this is in line with your desire to maintain cooperation with other interested powers while at the same time not involving

⁶⁴ *Post*, p. 446.

United States in use of force for protection of our treaty rights or conveying any such threat.

6. I shall telegraph further concerning feasibility of adoption at Canton of Shanghai procedure after receiving Huston's report in this.

MAYER

893.512/690 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, October 11, 1927—1 p. m.

358. Your 914, October 7, 9 p. m. Your telegram to Canton approved.

Is the two and one-half percent surtax referred to the so-called consumption and production tax imposed October 11, 1926, mentioned in Canton's despatch to the Legation of October 8, 1926,⁶⁵ and when was it abolished?

Is Department correct in understanding that new tax is ten percent of two and one-half percent, namely, one-fourth of one percent?

KELLOGG

893.512/694 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 11, 1927—7 p. m.

[Received October 14—10:50 a. m.]

927. Following from consul general at Shanghai:

"189, October 11, 5 p. m.

1. Upon receipt of the Department's October 1, 6 p. m., quoted in my telegram 183, October 3, noon, I called upon the Commissioner of Foreign Affairs and informed him that I proposed accepting treaty duties upon tobacco products and wine from now on imported by American citizens. It was emphasized that the American Government has been forced to this position in defense of its merchants and shippers. At that time he stated that a proposal for private arrangement was being considered to cover tobacco products.

2. As anticipated in paragraph 10 of my telegram No. 179 of September 26, 4 p. m.,⁶⁶ such firm stand has brought about more [apparent omission] attitude on the part of Nanking Government and it has now notified tobacco companies directly of new regulations providing that "all rolled tobacco and all goods manufactured with tobacco leaf after paying Customs duty and two and a half percent surtax shall be taxed at twenty percent ad valorem from the date of promulgation and enforcement of these regulations to the

⁶⁵ *Foreign Relations*, 1926, vol. i, p. 873.

⁶⁶ See telegram of the same date from the consul general to the Department, p. 414.

end of the current calendar year" and at twenty-two and one-half in lieu of this twenty percent ad valorem for calculation of 1928 while rate of tax during and after 1929 "shall be fixed when the time arrives." Goods so taxed are to be free from any other tax whatsoever. Regulations have not yet textually been made public.

3. American Tobacco Company's addressed inquiries to this consulate general as to acceptance of such marked modification of tobacco tax as originally imposed but this consulate general refrained from any advices pro or con other than to observe that American Government had registered no objection to private agreements made by American companies with Wine and Tobacco Administration in 1821 [1921]. Leading American, British and Chinese tobacco companies have agreed to accept terms of new regulations *in toto* and official promulgation is momentarily expected.

4. Commissioner of Foreign Affairs has informed me that endeavor will be made to conclude similar arrangements in reference to wine tax but to my mind large number and diverse interests of importers of wines and liquors make success of such plan doubtful."

MAYER

893.512/693 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 13, 1927—6 p. m.

[Received October 13—4:50 p. m.]

926. Your [My] 914. Following from American consul at Canton:

"October 12, 10 a. m. Your 193 and October 8, 3 p. m. Joined consular colleagues this morning in protest against imposition of new tax. General Li plans discontinue tax.

The reply suggested adoption of the consular compulsory procedure adopted at Shanghai impossible at Canton. Imports discharged in native city, control of which could not be gained except by the use of force."

MAYER

893.512/693 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 20, 1927—11 a. m.

[Received October 20—10:50 a. m.]

937. Your 358, October 11, 1 p. m. Following from American consul general, Canton:

"October 14, 9 a. m. Your October 7, 6 p. m.⁶⁸ The surtax referred to is the one mentioned in this consulate general's despatch to

⁶⁸ See telegram No. 914, Oct. 7, from the Chargé in China, p. 419.

the Legation of October 8, 1926,⁶⁹ and has never been abolished.

The new tax is ten percent of the above tax, the latter in specific instances amounting to two and a half, five, and seven and a half percent."

MAYER

893.512/700 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 22, 1927—1 p. m.

[Received October 22—11 a. m.]

943. 1. Following from consul general at Hankow :

"October 17, 4 p. m. Since I am likely to be confronted at any time with the same question, at least in principle, I should like to be informed of the Department's policy, as recently communicated to Cunningham, concerning the payment of taxes on liquors and tobacco, especially the two and a half and five percent surtaxes. Local oil companies state that they will probably shortly discontinue the payment of the \$1 per unit special tax on kerosene now being imposed. I should like to know what course I am expected to pursue here in enabling American concerns to get possession of their goods in case the Chinese authorities decline to free them on the refusal of the companies to pay this special tax and the surtaxes referred to in the first paragraph of this message."

I replied as follows:

"October 19, 6 p. m. Prior to acting upon your 200, October 17, 4 p. m., I desire your opinion as to practicability of applying Shanghai procedure at Hankow."

I am now in receipt of following from Butrick:⁷⁰

"October 20, 5 p. m. Your 91, October 19, 6 p. m. I assume Mr. Lockhart's knowledge of Shanghai procedure to be based upon newspaper reports and I also am given to understand by businessmen here that Shanghai procedure has resulted in litigation, the outcome of which is not known to me. Nearly all warehouses here are in Chinese territory so that delivery of goods could be forcibly prevented if local authorities so desired, or goods could be seized and held for taxes after delivery from warehouses or oil installations in which case, if consular protest was of no avail, taxes would probably have to be paid under protest, if indeed fines also were not exacted."

The particular concern at this time is the attitude which should be assumed by this office toward the discontinuance of the \$1 per unit special tax on kerosene now in use paid to the exclusion of surtaxes and transit taxes on kerosene."

2. Department's instruction in the premises respectfully requested.

MAYER

⁶⁹ *Foreign Relations*, 1926, vol. I, p. 873.

⁷⁰ Richard P. Butrick, consul in charge at Hankow during short absence of Consul General Lockhart.

893.512/700 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, October 26, 1927—noon.

369. Your 943, October 22, 1 p. m.

1. Situation described in Hankow's telegrams would appear to parallel situation described as existing at Canton in your telegrams 914, October 7, 9 p. m., and 926, October 13, 6 p. m., and it would therefore appear to the Department that the procedure under which certain American goods are being released from warehouses in Shanghai could not be followed at Hankow without force which, as you know, this Government is not prepared to use. Department of course has no objection to your communicating to Hankow, for its information, exchanges of telegrams which explain situation at Shanghai.

2. Department is interested in following statement quoted from Hankow's telegram of October 20, 5 p. m., "I also am given to understand by business men here that Shanghai procedure has resulted in litigation." Department desires information as to any litigation which may have arisen at Shanghai as the result of procedure there.

3. As regards the general attitude which the Consulate General at Hankow should adopt toward taxes which are imposed contrary to the treaties, Department suggests that you instruct Hankow in accordance with its telegram 270, July 1, 5 p. m.

4. The Department is not clear as to the status of the \$1 per unit special tax on kerosene mentioned in Hankow's telegram of October 20, 5 p. m. Department desires more information concerning this tax, by whom it is collected, the conditions under which it is collected and any other material information available before making any decision as to the attitude which the Consulate General should adopt. More specifically, the Department would like to know whether this tax is the result of private arrangement between the oil companies and the local authorities.

KELLOGG

893.512/704 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, November 2, 1927—3 p. m.

[Received November 2—2:30 p. m.]

968. Your 369, October 26, noon, second paragraph. Following from Cunningham:

"No litigation other than test cases has resulted from the clearance of vessels or the acceptance of the treaty import duties by consular officers."

MAYER

893.512/705 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, November 7, 1927—4 p. m.

[Received 4:05 p. m.]

979. Your 369 October 26, noon, fourth paragraph. Following from consul at Hankow:

“November 5, 1 p. m.

1. Legation's 100, October 28, 1 p. m. The tax under discussion is the Nationalist Government tax reported to Legation in this consulate's despatch number 237, April 27th, 1927.⁷¹ It is collected on all oils moving out of Hankow installations. Provincial authorities in Hunan and Honan are seeking to impose additional tax of \$1 per unit on oils going into those Provinces but this taxation is not now under discussion.

2. After exhaustion of its advance deposit, Standard Oil Company paid that tax up to October 28th. Company now seeks to obtain reduction of tax. In protest against tax, all oil companies ceased shipments from Hankow installations on October 30th and intend to fight tax vigorously if all companies can be held to continued cessation of shipments.

3. It would appear that this consulate can properly protest only the applicability of tax to any transit pass shipments and take suitable occasion to bring informally before Chinese authorities injurious effect upon consumer of high oil taxation. I shall however await Legation's instruction before taking any action.”

The Legation has informed Adams that his paragraph 3 is approved.

MAYER

893.512/713 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, November 22, 1927—2 p. m.

[Received November 22—1:50 p. m.]

1022. 1. Following from Shanghai consul general:

“November 18, 4 p. m.

(1) Director of surtax bureau announced yesterday that ‘surtax of one and one-quarter percent on all native goods imported to Shanghai from other ports of China amounting to one-half of the present coast-trade duty will be collected.’

(2) It will be observed that only one day's notice is given and that no provision is made for exemption of native products in transit.

(3) American Chamber of Commerce has asked to be allowed to pay recognized coast-trade duty on American-owned native products into consulate general, or if that cannot be done it wishes to secure some other form of relief.

⁷¹ Not printed.

(4) I have informed Chamber of Commerce that such method of payment is impracticable and that I can think of no successful way of preventing the collection of the surtax but I have invited it to make suggestions.

(5) The Legation's instructions are requested.

(6) I have suggested to the chamber that interested individuals might take up with the Superintendent of Customs the question of exemption of cargo which is already in transit."

2. I concur in consul general's fourth paragraph.

3. Department's instructions are requested, pending receipt of which Legation is not instructing Cunningham.

MAYER

893.512/713 : Telegram

The Secretary of State to the Chargé in China (Mayer)

[Paraphrase]

WASHINGTON, November 28, 1927—3 p. m.

391. Your telegram of November 22, 2 p. m.

1. The Department does not believe that method of payment which the American Chamber of Commerce proposed could be put in effect.

2. The Department desires to receive additional information with respect to treaty rights involved. In article 3 of the British regulations relating to transit dues, exemption certificates and coast trade, coast-trade duty is declared to be half of import duty. (See second volume, page 633 of Hertslet's *China Treaties*.⁷²) Apparently the regulations are based upon an arrangement between China and Great Britain of which the text is not available to the Department. Please find out whether these regulations are now in force and whether the British Legation or other legations contemplate making them the basis of a protest against the surtax. Apparently article 44 of the treaty of 1863 between China and Denmark⁷³ limits the coast-trade duty to one-half of the tariff duty only when the goods are carried in Danish ships.

KELLOGG

893.512/718 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, November 29, 1927—11 a. m.

[Received 1:40 p. m.]

1044. 1. Following from American consul general at Shanghai:

"November 17, noon. Nanking Government has promulgated special kerosene-tax laws similar to those previously enforced by

⁷² Third edition, 1908.

⁷³ Signed at Tientsin, July 13, 1863. China, Imperial Maritime Customs III, Miscellaneous series No. 30: *Treaties, Conventions, etc., Between China and Foreign States* (Shanghai, 1908), vol. II, pp. 1043, 1056.

Canton and Hankow Governments. Larger American companies have not yet registered complaint and apparently contemplate allowing such new tax of \$1 per 10-gallon unit to fall on their native dealers, thereby obviating technical recognition of the tax by American trade. Smaller American oil companies however have requested information as to the attitude of the American Government in reference to kerosene-tax laws and as to probable steps which will be taken by American Government. Does the Legation desire that I file formal protest at promulgation of laws imposing this extra treaty tax. Please instruct as to replying [apparent omission]."

2. Following to consul general at Shanghai:

"November 19, 3 p. m. Your 219, November 17, noon.

(1) If tax is direct levy on American products in American hands or is in any way discriminatory you should protest it on general grounds.

(2) In event tax is indirect levy and only affects native dealers and consignees of American firms take no action but report facts to the Legation for further instructions."

3. Following from consul general at Shanghai.

"November 22, 12 noon. Your November 19, 3 p. m. Kerosene-tax authorities assure American oil companies that new tax is not in contravention of treaties since it is purely a consumption tax, yet local Texas Company's consignment of kerosene to its Wenchow agent has been detained by local Chinese authorities for failure to pay such tax theoretically payable by Wenchow consumers. Tax therefore appears to be direct levy on American products but not in any way discriminating against American companies.

Tax authorities cite previous acceptance by American oil companies of similar collection arrangements at Hankow and Canton as precedents.

At least one American oil company is considering expediency of payment of tax here through its National City Bank agents 'acting on behalf of the absentee consumers'."

4. Department's instructions in the premises are requested.

MAYER

893.512/721 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, December 1, 1927—6 p. m.

[Received December 1—10:51 a. m.]

1055. 1. Following from consul general at Shanghai:

"November 29, 5 p. m.

(1) The director of the Surtax Revenue Department, acting under instructions from the Ministry of Finance, Nanking, notifies today that on December 1, 1927, he will collect, apart from the transit dues, a surtax an additional one-half of the present customs transit dues.

(2) Shall I file protest or take other action?"

2. Department's instructions requested as to whether Cunningham should protest this apparent extension of the transit dues of Washington Conference surtaxes. I respectfully suggest protesting this unwarranted application of Washington Conference principle in respect of customs dues.

MAYER

893.512/720: Telegram

The Consul General at Shanghai (Cunningham) to the Secretary of State

SHANGHAI, December 2, 1927—5 p. m.

[Received December 2—7:34 a. m.]

Referring to Department's telegram of October 1, 6 p. m., and my telegraphic reply October 3, 5 p. m. Nationalist Government has now suspended collection of fifty percent special tax on tobacco products, and American importers are clearing their cargo by the payment of the treaty duty and so-called Washington surtaxes. I am therefore at present no longer accepting payment of the treaty duty on tobacco products as authorized by the Department's telegram.

CUNNINGHAM

893.512/722: Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, December 2, 1927—11 p. m.

[Received December 2—3:55 p. m.]

1061. 1. The following from American consul at Shanghai:

"November 23, 5 p. m. Under date of November 8 the Bureau of Duty Stamps for Kiangsu informed the Shanghai Insurance Association that an office 'for sale of stamps and investigations' had been established. That the scale of stamps duty on insurance policies as provided in the stamp act of 1912 and 1914 having been approved by the Nationalist Government, it would be enforced throughout China. In response to an inquiry from an American in the city I have again stated that while the tax had not been approved by the United States Government, American companies must decide whether on grounds of expediency Chinese brokers and agents should be given permission to purchase and affix the stamps required. Characteristically Chinese the bureau is endeavoring to induce American companies to make advance purchases large supply stamps. For rate see *Chinese Year Book*, 1926, page 488."

2. In reply I have approved his statement and sent for Cunningham's information the following extract from a communication from the Senior Minister to the Senior Consul at Chefoo:

"... the question of affixing stamps to commercial documents relating to transactions between foreign businessmen and Chinese is one which should be left to the interested parties to settle. It is estimated

that, in view of the existing relations, the Chinese may wish to have these documents stamped in order to make valid according to the laws of the country; and it seems to my honorable colleagues that the foreign merchant has to decide himself in each individual case in what way he deems it expedient to comply with these wishes."

MAYER

893.512/723 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, December 3, 1927—9 a. m.

[Received 1 p. m.]

1063. 1. Following from consul general at Shanghai:

"November 30, 9 a. m. Referring to my telegram[s] of November 17, noon, and November 22, noon.⁷⁴ Standard Oil Company after extended negotiations plans to conclude direct friendly agreement with Kerosene Tax Bureau of Nanking, Ministry of Finance, which has emphatically stated to the company bureau's full intention to levy tax irrespective of any protests or even unlikely use of armed force by foreign governments.

(2) This consulate general has urged that such private agreement avoid any acceptance in principle of this extra treaty tax particularly in reference to shipments into this or other foreign concessions. Company willing to comply insofar as possible but states Nanking representatives most sensitive relative to definite references to foreign settlements. Details of the proposed agreement are being forwarded by mail. Standard Oil Company states its New York office has reported salient features of proposed agreement to Department.

(3) All companies at Nanking pay \$1 per case tax indirectly through their native agents but Standard Oil Company agreement provides for 60 cents direct tax if accepted. Recognizing inability of American Government to protect distribution of petroleum products throughout China, proposed agreement is considered quite favorable to Standard Oil Company and while such written recognition of tax on oil is regrettable, the treaties are not threatened to a greater degree than they were by similar tobacco company agreements of 1920, other than that in proposed agreement the foreign concessions are not specifically referred to as excepted from operation of tax.

(4) Agreement provides for advance payment of approximately one month's normal taxes and while this company arrangement is undesirable it is characteristic of such agreements. When this credit is exhausted by accrued taxes, company will make payments at stated intervals, normally being debtor to tax authorities. Agreement reached appears as a surprisingly satisfactory reconciliation of the points of view of the company and the Nationalist authorities as stated in paragraph 1.

(5) The above transmitted on this office's initiative and not as protest on the part of Standard Oil Company, although the company is now preparing a formal protest at levy of direct tax on American goods in the hands of American company. This office will transmit such protest to authorities unless otherwise instructed."

⁷⁴ See telegram No. 1044, Nov. 29, from the Chargé in China, p. 426.

2. Am authorizing Cunningham to enter general protest but to refrain from transmitting Standard Oil Company protest until definitely so instructed by Department. The company's attitude appears inconsistent and its request entirely unreasonable in that, while impliedly recognizing the principle of the tax by its private agreement with Nanking regime made without consultation with Department or Legation, it now seemingly desires American official protest on its behalf.

3. The Department is respectfully referred to the Legation's 131, March 16, 10 a. m., 1926,⁷⁵ and mail despatch number 776, October 4, 1926.⁷⁶ Like action is recommended at this time as set forth in last sentence of above telegram.

MAYER

893.512/718 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, December 3, 1927—3 p. m.

396. Your 1044, November 29, 11 a. m. Department considers that tax referred to by Consul General Shanghai is a violation of treaty when collected on American goods re-exported from one open port to another or shipped to the interior under transit pass. As regards question of protest see Department's telegram No. 270, July 1, 5 p. m.

KELLOGG

893 512/721 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, December 5, 1927—5 p. m.

400. Your 1055, December 1, 6 p. m. Surtax appears contrary to Article 28 British Treaty of 1858 and Article 7 Washington Conference Customs Treaty. As to protest see Department's 270, July 1, 1927.

KELLOGG

893.512/723 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, December 6, 1927—4 p. m.

403. Your 1063, December 3, 9 a. m.

1. The proposed tax arrangement between Nanking authorities and the Standard Oil Company was brought orally by the Company to the attention of the Department on November 21 without any indication

⁷⁵ *Foreign Relations*, 1926, vol. I, p. 1095.

⁷⁶ Not printed.

of the line of action which the Company proposed to take. The Department has subsequently been informed of telegrams exchanged by the Company with its Shanghai office in relation thereto. Department refrained from any comment in regard to the arrangement considering it a matter for private negotiation. (See Department's telegram 208 [298]. November 17, 6 p. m., 1921.)⁷⁷

2. The Standard Oil Company and other foreign companies evidently feel that compliance with these regulations is necessary to the continuance of their business and payment of the tax under protest is in accord with the policy suggested in Department's telegram 283, July 12, 3 p. m., paragraph 4. Department believes that the Company's protest should be supported by the American Consul General if based on treaty infraction such as refusal to issue or to recognize efficacy of exemption certificates or transit passes or the taxation of goods while still at port of entry as Company is being forced to pay taxes under protest.

KELLOGG

893.512/726 : Telegram

The Consul General of Shanghai (Cunningham) to the Secretary of State

SHANGHAI, December 7, 1927—9 a. m.

[Received December 7—7:53 a. m.]

Referring to your telegram No. 391 of November 28, 3 p. m. to the Legation, Peking.

Coast-trade duty has heretofore been levied at the rate of two and one-half percent in accordance with treaty provisions quoted by the Department as well as section 3, article 4, of the Chefoo agreement of 1876,⁷⁸ which provisions inferentially are confirmed by provisions of article 5, section 6 (b), of British regulation[s] for trade on West River, 1905,⁷⁹ and article 1, section 6, of Yangtze regulations of 1898.⁸⁰

2. New surtax of one-half of regular treaty coast-trade duty appears in violation of above treaty provisions but neither British consul general nor other consular officers here have yet protested the new surtax. Repeated to Legation.

CUNNINGHAM

⁷⁷ Not printed.

⁷⁸ Agreement between Great Britain and China, signed at Chefoo, Sept. 13, 1876, China, Imperial Maritime Customs III, Miscellaneous series No. 30: *Treaties, Conventions, etc.*, vol. 1, pp. 299, 305.

⁷⁹ Regulations of Trade on the West River, issued by the Chinese Imperial Maritime Customs, Canton, April 1905, *British and Foreign State Papers*, 1904-1905, vol. xcvi, pp. 449, 452.

⁸⁰ Regulations governing trade on the Yangtze-kiang (with Yangtze Port Regulations), August 1898. Text as published by Inspector General of Customs printed in MacMurray, *Treaties and Agreements With and Concerning China, 1894-1911*, vol. 1, pp. 163, 167.

893.512/728 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 12, 1927—11 a. m.

[Received 11 p. m.]

1080. Your 403, December 6, 4 p. m. was repeated today Shanghai but evidently had not yet been received when following was sent by him:

"December 9, 4 p. m. Referring to comment in my November 30, 9 a. m.,⁸¹ I have just been shown revised draft of Standard Oil Company's agreement with Petroleum Tax Bureau and find it less favorable than earlier one.

2. Reference paragraph 2, agreement still makes no mention of shipments to this or other foreign concessions.

3. Reference paragraph 3, Petroleum Tax Bureau while taking care of likin station charges cannot control native customs stations within 50-li radius of Shanghai, Ningpo and Wenchow and supervised by Maritime Customs; and taxes levied by such stations must be paid by company irrespective of new 60 cents, which latter tax alone will bring total duties and taxes up to approximately seventeen and one-half percent as opposed to reported twelve and one-half percent proposed by Tariff Commission. Signed agreement for payment of tax will be granted providing for excess of Tariff Commission. Proposal is made [*most?*] unfortunate since it is further abandonment of treaty rights by [apparent omission] governmental encroachments on company treaty rights.

4. Reference your December 3, 9 a. m.⁸² This consulate general has protested petroleum tax along general lines but holds Standard Oil Company protest in abeyance pending further instructions."

MACMURRAY

893.512/730 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 12, 1927—4 p. m.

[Received December 13—9:20 a. m.]

1082. Department's 400, December 5, 5 p. m. Following from American consul general at Shanghai:

"December 9, 5 p. m. Continuing my 239, November 29, 5 p. m.⁸³ American Chamber of Commerce under date of December 2 protests against surtax of one-half of the present transit dues and states that 'We wish to protest against this tax on the ground that it is in contravention of the present treaties existing between the United States and China and would greatly appreciate your recording this protest officially with the American Minister in Peking and the State Department in Washington.' It is suggested that protest be filed with the local Commissioner of Foreign Affairs against the imposition of this nontreaty tax."

⁸¹ See telegram No. 1063, Dec. 3, from the Chargé in China, p. 429.

⁸² See par. 2 of telegram No. 1063, Dec. 3, 9 a. m., from the Chargé in China to the Secretary, p. 430.

⁸³ See telegram No. 1055, Dec. 1, from the Chargé in China, p. 427.

I have replied as follows:

"December 12, 5 p. m.

1. Your 250, December 9, 5 p. m., and in accordance with No. 239, December 1, 6 p. m. [*November 29, 5 p. m.*], with regard to protest of surtax on native goods imported to Shanghai, following received from Department: Here quotes Department's telegram No. 400, December 5, 5 p. m.

2. Department's 270, July 1, 1927, repeated in my 248, December 8, 3 p. m.

3. The matter of this surtax will be discussed at a meeting to be held soon by the interested Ministers in Peking and you will be promptly informed of the results of such a conference.

4. In meantime you should take no action and should keep Legation promptly informed of any action on the part of other interested consular authorities in Shanghai."

MACMURRAY

893.512/735 : Telegram

The Consul General of Shanghai (Cunningham) to the Secretary of State

SHANGHAI, December 21, 1927—2 p. m.

[Received December 21—7:10 a. m.]

Referring to Department's telegram of October 1, 6 p. m. Nationalist Government has now suspended collection of thirty percent special tax on wines, and American importers are able to clear their cargoes by the payment of treaty duty and so-called Washington surtaxes. I am no longer accepting payment of treaty duty on wines as authorized by the Department. Some of my colleagues are inclined to hold the collections made on account of tobacco products and wines until called for by Customs. See enclosure 4 to my despatch number 5051 of October 28th.⁵⁴ In other words the Customs shall take the initiative. The suspension is not announced, therefore presumed not retroactive. Repeated to Legation.

CUNNINGHAM

CONSULAR CLEARANCE OF FOREIGN VESSELS TO AVOID IMPOSITION BY CHINESE AUTHORITIES OF SURTAX ON TONNAGE IN EXCESS OF DUES FIXED BY TREATY

893.841/— : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 13, 1927—1 p. m.

[Received May 13—5:45 a. m.]

551. 1. Foreign Office has informed the Ministers of treaty powers of its desire to have existing tonnage dues for ships of more

⁵⁴ Despatch and enclosures not printed.

than one hundred and fifty tons raised from 4 mace per ton to 5, thus obtaining funds estimated at one million taels per annum with which to defray the expenses of the Chinese diplomatic and consular service. There is a disposition on the part of the Ministers to recommend to their Governments such an increase provided the Peking regime can agree that Southern factions acquiesce so far as to assure that collection by the Customs for this purpose will not be made the occasion for hostile action by the South. Such an understanding between North and South would be a step towards unity in the foreign relations of the country and would tend to reaffirm the validity of treaty obligations.

2. I request authorization to assent to the increase if circumstances warrant.

MACMURRAY

893.841/- : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, May 20, 1927—5 p. m.

227. Your 551, May 17 [13], 1 p. m. Department desires to support any measure calculated to promote unity in China in foreign relations or otherwise. Of course, you understand that as these taxes are fixed by the treaty⁸⁵ the Department cannot legally alter the treaty but if you recommend it, the Department will raise no objection [to] an additional tax thereby following the same course which the Department observed in the famine relief surcharge of 1921. See Department's No. 271 of October 8, 5 P. M., 1920.⁸⁶

KELLOGG

893.841 Surtax/1 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 8, 1927—3 p. m.

[Received July 8—8:25 a. m.]

705. Legation's 698, July 6, 5 p. m.⁸⁷

1. Following from American consul at Shanghai :

"July 7, 9 p. m. The director in charge of Surtax Revenue Department today officially announced that he has 'received an order from Ministry of Finance of the National Government, Nanking, to collect a surtax on tonnage amounting to one-half of the existing Customs tonnage dues' and that he proposes to collect such surtax on and after

⁸⁵ Art. xvi of the treaty of peace, amity, and commerce between the United States and China, signed at Tientsin, June 18, 1858, Malloy, *Treaties*, 1776-1909, vol. i, pp. 211, 217.

⁸⁶ *Foreign Relations*, 1920, vol. i, p. 728.

⁸⁷ *Ante*, p. 392.

July 11, 1927. Present tonnage dues, fixed by treaty, are 4 mace per ton. I protested against this surtax on the ground that it is imposed without adequate notice and that it has not been sanctioned by the diplomatic body. I believe further that we should inform the Customs that American ships will make the payment of tonnage dues at the existing treaty rate and that if payment at such rate is not accepted they will proceed without Customs clearance. The Legation's instructions are requested."

2. I am replying as follows:

"July 8, 3 p. m. Your July 7, 9 p. m.

(1) The question of filing a protest in this instance as well as in the cases of the proposed surtaxes on imports and excise on tobacco is one of general policy primarily for consideration and determination by the Department. You should therefore not protest in such case without obtaining the Legation's instructions to that effect (see Legation's 75, July 3, noon⁸⁸).

(2) For your information it may be stated that the Legation is giving careful consideration to the most effective way in which the general protest can be made against the repudiation by the Nationalist authorities of the whole system of treaty rights as regards committees [customs?] matters."

MACMURRAY

893.841 Surtax/2 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 9, 1927—4 p. m.

[Received July 9—5:58 a. m.]

711. Legation's 705, July 8, 3 p. m.

1. I earnestly request authorization to inform the consul general at Shanghai that his recommendation is approved with regard to informing the Customs that American ships will pay tonnage dues at treaty rates and that if payment is refused they will proceed without Customs clearance papers.

2. Surtax on tonnage dues will be discussed at a meeting of the diplomatic body on July 11th and as there is hardly time to receive your instructions by that date the Legation will reserve the position of the American Government.

MACMURRAY

893.841 Surtax/3 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 9, 1927—2 p. m.

280. Your 711, July 9, 4 p. m. If the American shipping companies desire to take the course suggested in first paragraph of above

⁸⁸ Not printed.

message, you are authorized to do so. If, on the other hand, American companies prefer to pay the surtax under protest, do not think this Government should order them not to do so. There is no objection, of course, to protesting against tonnage dues collected in violation of treaty but if United States insists that the shipping companies shall only pay taxes provided by the treaty, we assume an obligation to protect them against any excess taxes even to the extent of using military or naval forces which we notified in No. 61, February 15, 4 P. M.⁸⁹ this Government is not prepared to do.

KELLOGG

893.841 Surtax/4 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 11, 1927—4 p. m.

[Received July 11—2:45 p. m.]

717. 1. The following has been telegraphed to the American consul at Shanghai:

"87. July 11, 8 p. m. Referring to my telegram number 85 of July 11, 6 p. m., sent you in behalf the Senior Consul.

"(1) In view of the fact that it seems certain in our case, and quite likely in regard to the other powers concerned, that military measures will not be employed to prevent imposition of illegal tonnage dues, it results that the only defense we have in this regard is of an economic character. Some such plan as set forth in my telegram above mentioned seems worthy of consideration. Its application would of course be entirely dependent upon the attitude of the foreign commerce interests concerned, who must determine whether they prefer to submit to this and doubtless further increased port duties and illegal taxation of every character or to attempt to put a stop to such activities on the part of the Chinese by taking some affirmative action.

"(2) It is felt that the extraordinary ability of the Chinese to rearrange trade transportation, as evidenced during the recent Canton boycott, makes for the feasibility of the plan under discussion."

[2.] The Senior Minister's telegram to the Senior Consul referred to above is as follows:

"85. July 11, 6 p. m. The Senior Minister has requested me to transmit to you the following telegram for him:

(1) At diplomatic body meeting this morning the Heads of Legation, in discussing the term of illegal tonnage dues, considered what, if any, economic measures might be successful in prevention of illegal tonnage dues. To this end, they examined the feasibility of the redistribution of foreign trade to ports where there would be no apprehension of illegal imposts; with the idea that should foreign commerce find such a plan practicable, mere knowledge of its consideration might possibly serve sufficiently to dissuade Chinese authorities against a radical invasion of foreign treaty rights without the necessity for putting any such plan into execution—although such a plan

⁸⁹ *Ante*, p. 382.

should not be decided upon unless prepared to carry it into actual effect if necessary.

(2) Please consider this matter without delay in consular body meeting, either giving the Heads of Legation the benefit of your views on this subject preliminarily, or preferably in your discretion, discussing the matter with the several foreign chambers of commerce prior to reporting thereon."

[3.] The Minister and I discussed this proposition prior to his departure and decided to offer it to the Heads of Legation for what it might be worth; as something which, while likely impracticable, at the same time was worthy of examination with a view to finding some method other than force of arms which would prevent the imposition of illegal port dues in particular and unwarranted imposts in general. The other diplomatic representatives felt that it was worth while exploring the matter further and referring to the consular body at Shanghai and the several foreign chambers of commerce there for examination and report. It was believed that the mere fact that foreign commerce was considering such drastic economic action in their defense might of itself have a beneficial effect in impeding if not entirely preventing illegal taxation here.

For the Minister:

MAYER

893.841 Surtax/5 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 11, 1927—5 p. m.

[Received July 11—12:48 p. m.]

718. Department's 280, July 9, 2 p. m.; Legation's 708, July 9, noon;⁸⁰ and second paragraph Legation's 711, July 9, 4 p. m.

1. Pursuant to the policy as set forth in telegram first mentioned, regarding protest against recent illegal exactions imposed or to be imposed by Nationalist regime, I reserved our Government's position at the diplomatic body meeting this morning.

[2.] The following identic telegram is being sent to their respective consuls at Shanghai by the other diplomatic representatives concerned:

"American Minister having referred to his Government is not yet in a position to join protest against increase of tonnage dues. You should [keep?] in touch with American consul general [and] with all other colleagues and protest individually without delay unless consular body considers that situations warrants [*sic*] delay of a few days when America may be in a position to join."

For the Minister:

MAYER

⁸⁰ *Ante*, p. 393.

593.841 Surtax/6 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 12, 1927—2 p. m.

282. Your 718, July 11, 5 p. m.

1. Department does not understand necessity of reserving position of American Government at Diplomatic Body meeting as Department's 280 of July 9, 2 p. m., informed you that the Department saw no objection to protesting against tonnage dues collected in violation of treaty.

2. Representative of Robert Dollar Company called at the Department today with regard to question of tonnage dues and was informed in accordance with statement contained in telegram of July 7, 9 p. m., from American Consul at Shanghai quoted in your 705 of July 8, 3 p. m. that the American Consul at Shanghai had already protested against the tonnage tax.

KELLOGG

593.841 Surtax/7 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 15, 1927—3 p. m.

[Received July 15—9:25 a. m.]

733. Your 282, July 12, 2 p. m. 1. Following from the American consul, Shanghai:

"July 14, 5 p. m. Following for the Senior Minister from the Senior Consul:

At a meeting of the consular body held yesterday it was decided to address a protest to the Commissioner of Foreign Affairs in the following terms:

I have the honor on behalf of my colleagues, the consular representatives of United States of America, Norway, Great Britain, Japan, France, the Netherlands, Spain, Sweden, Denmark, Portugal, Brazil, Italy, Switzerland, to protest against the order issued by the Surtax Revenue Department imposing a surtax of 50 percent on the tonnage dues, printed the 11th instant.

As such surtax constitutes a flagrant violation of the existing treaties, we are unable to instruct our respective nationals to comply with the demand for its payment and we must reserve to ourselves the right to take such steps as we may deem suitable to protect our shipping from such illegal levy.

It was the opinion of the consular representatives that the proposal for diverting shipping from Shanghai was not feasible but inquiries are being addressed to the different national chambers of commerce with a view to ascertaining how far this view is correct and if so what other proposals for making our protest effective can be suggested.

It was considered for instance that provided naval [apparent omission] could be afforded by agreement at Shanghai and other principal ports affected it might be possible for the tonnage dues to be at treaty

rates with the consulates and for the ships to proceed with a consular clearance instead of a Customs clearance."

2. "July 14, 4 p. m. With reference to my telegram of July 14, 5 p. m. for the Senior Minister, I would advise that the consular body was distinctly informed at the time the above-mentioned telegram was agreed to that the United States would not use force in carrying out this proposal."

For the Minister:

MAYER

893.841 Surtax/S : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 22, 1927—3 p. m.

[Received July 22—9:55 a. m.]

751. Department's 283, July 12, 3 p. m.⁹¹

1. Following from American consul at Shanghai:

"July 21, 4 p. m.

[(1)] Local representatives of American shipping interests met with me July 13 to discuss surtax on tonnage. They proposed that the first American vessel to arrive in Shanghai with tonnage dues to pay should tender dues at the treaty rate, accompanying the tender with a letter from the consul general to the Customs protesting against the levy of the surtax on American tonnage and objecting to its payment by American citizens. This vessel will probably be the *Patrick Henry*, Shipping Board vessel, due Shanghai, July 28. I have agreed to this plan but have no confidence in its success. If it fails, shipping interests will meet again with me to consider payment under protest. Am in close touch with American shipping interests and American Chamber of Commerce. The Dollar Line has been instructed by its home office to follow my advice.

(2) No American vessels have paid the surtax, as all arrivals since July 11th have unexpired tonnage dues certificates."

2. I am replying as follows:

"July 22, 3 p. m. The attitude which you have taken as reported in your July 21, 4 p. m., is approved. You should of course bear constantly in mind the Department's instructions with regard to the question of protests as conveyed to you in the Legation's [apparent omission]."⁹²

Reference to the Department's instructions relates to paragraph 4 of the Department's telegram cited above.

MACMURRAY

⁹¹ *Ante*, p. 397.

⁹² The Department's telegram No. 280, July 9, to the Minister in China (*ante*, p. 435) was repeated by the Minister in telegram No. 84, July 11 (not printed), to the consul general at Shanghai. See telegram No. 801, Aug. 10, from the Minister in China, p. 447.

893.841 Surtax/9 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 28, 1927—noon.

[Received 12:26 p. m.]

767. Legation's 705, July 8, 3 p. m., and 751, July 22, 3 p. m. Following from American consul at Shanghai:

"July 27, 2 [3?] p. m. Continuing my July 21, 4 p. m. The plan proposed therein was unsuccessfully tried by the American vessel *Steel Voyager*, July 16th. The vessel then paid surtax under protest.

At a meeting of American shipping interests on the 25th it was decided to ask the Shipping Board for permission to clear the *Patrick Henry* by consular clearance about July 28th. After which attempt, final decision will be made by shipping interests. The United States Shipping Board representative has cabled the Shipping Board for instructions.

I fear that tonnage is too closely allied with import and export duties to make entirely practical in all cases my suggestion of July 7, 9 p. m.⁹³ The shipping companies must assume too many risks if decision is made on this point solely. Little difficulty is expected in extending protection so far as the ships are concerned but unless the entire illegal duties are to be contested other attendant results, such as the cancellation of annual bond, is more difficult [*sic*] without which the clearance of vessels will be seriously and extensively delayed."

MACMURRAY

893.841 Surtax/10 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 28 [29?], 1927—3 p. m.

[Received July 29—9:55 a. m.]

771. Legation's July 28, noon. Following from the American consul general, Shanghai:

"July 28, 6 p. m. Referring to my telegram of July 27, 3 p. m. American shipping interests extremely perturbed over collection of surtax on tonnage dues by the Nationalist Government. They recommend opposing payment and to accomplish this offer following suggestions:

First. American consul officially to request Commissioner of Customs here to accept tonnage dues authorized by treaty and to clear vessels without payment surtax. If the Commissioner refuses, Ministers at Peking to inform Inspector General that the Shanghai Commissioner is using Customs machinery for enforcing collection illegal revenue and should urge him to issue

⁹³ See telegram No. 705, July 8, from the Minister in China, p. 434.

instructions to Shanghai Commissioner to confine himself to collections authorized by treaty. If the Customs bank refuses cooperation, another bank must be designated for collection dues authorized by treaty.

Second. Failing action as indicated section 1, then American ships are to pay authorized tonnage dues but no surtax through American consulate. If Customs retaliates and refuses clearance, ships to leave port with consular clearance only. If Customs retaliates further by withdrawing all customs privileges, then shipowner and shipper should ignore the Customs and should respectively pay tonnage dues and duty on cargo to consulate, upon receipt of which consular clearance to be issued to ship.

In reference to first suggestion of steamship companies, Commissioner of Customs has stated he can issue clearance only upon production of documentary evidence of payment of authorized tonnage dues, which evidence Bank of China, acting under orders of Superintendent of Customs, withholds until surtax tonnage dues are [paid]. Difficulty therefore lies in Superintendent's use of Customs machinery rather than Commissioner's, but instructions from Inspector General at Peking may permit Commissioner to issue clearance on receipt of notification from consulates concerned that they have received authorized tonnage dues since Customs bank refuses to carry out established procedure.

As reported in my 104, July 27, 3 p. m., Customs have intimated that if present Customs procedure is disregarded by merchant vessels, Customs will be compelled to withdraw privilege of annual guarantee, thereby making clearance difficult until all duties paid. Which [*While?*] holding to my previously expressed opinions in the matter, it is important that the American Government fully appreciate responsibility possibly devolving upon it through provisions of article 22 of McKay treaty 1858,⁹⁴ which makes this consulate responsible for all tonnage dues as well as duties leviable on cargoes of vessels cleared by consulate without Customs clearance. In such case, American Government must establish machinery to collect tonnage dues and may eventually also be called upon to collect such duties and surtaxes as American Government recognizes as legally due to Chinese authorities. Whole matter of surtaxes and proposed new tariff therefore would be involved. While I do not consider matter one of insuperable difficulty, responsibilities assumed only after due consideration. Shipping interests request that Legation transmit their recommendations to the Department."

MACMURRAY

⁹⁴Reference is erroneous. The treaty of peace, amity, and commerce of 1858 between the United States and China was signed by William B. Reed on behalf of the United States; Malloy, *Treaties*, 1776-1909, vol. I, p. 211. A commercial treaty between Great Britain and China was signed at Shanghai on Sept. 5, 1902, by James L. Mackay on behalf of Great Britain and is sometimes referred to as the "Mackay treaty"; for text, see China, *Imperial Maritime Customs, Treaties* (Shanghai, 1908), vol. I, p. 351.

893.841 Surtax/12 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 29, 1927—5 p. m.

[Received July 29—1:10 p. m.]

773. Following from American consul general at Shanghai:

“July 27, 4 p. m. For the Senior Minister from the Senior Consul.

1. With reference to your telegram of July 18, the following reply has been approved by consular body with the exception of consuls general for Japan and Denmark who will communicate their reservations directly to their respective Ministers.

2. The consular body desire in the first place to emphasize that the utilization of the Shanghai Maritime Customs machinery for the collection of extra-treaty taxes renders it possible for any *de facto* government controlling this port to impose tariff autonomy at any moment—as the Nanking Government in fact propose to do on 1st September next. The contention that Chinese organizations merely make use of Customs documents to assist them in levying extra-treaty taxes does not accurately represent the fact, which is that the Maritime Customs machinery is used to prevent the movement of foreign ships and cargo until extra-treaty taxation have been collected from them.

3. One method of rendering any protest against extra-treaty taxation effective would be for the Foreign Minister to inform the Inspector General of Customs that persistence by the Maritime Customs in the present attitude at Shanghai might lead to disruption of the service.

4. If it is considered expedient to put pressure on the Maritime Customs, the Foreign Ministers might notify the Nanking, Hankow and Peking authorities that unless levying of extra-treaty taxes ceases, foreign merchants will be instructed to pay to the consulates the treaty taxes plus Washington and export surtaxes and that foreign ships and cargo will be protected against any attempts to interfere with them by the Chinese authorities.

5. The degree of protection to be afforded will involve small guards at the foreign-owned wharves situated outside Settlement limits, some 30 in number, and a patrol by naval armed launches to prevent interference with cargo being handled in the river. The presence of one cruiser at Woosung would suffice to prevent any possible action by the forts there.

6. The above protection would suffice for ocean-going vessels which do not call at other ports under Nationalist control, but if the above are to include coastal shipping it would appear necessary to provide equivalent protection at, say, Amoy, Swatow and Canton in addition.

7. Any partial system of this sort can only be partially effective and is only suggested as being less alarming than direct action taken against the offending Chinese Government, which affords of course the only completely effective answer.

8. In any case it is essential that any action taken should be based on the initiative of foreign governments and should not be left to the discretion of individual merchants.

9. Only on condition that the Foreign Ministers interested have decided how far they are prepared to go in protection of their treaty

rights, we recommend that the consular body here should be authorized to appoint delegates to enter into informal conversations with delegates of the Nanking authorities. The object of these conversations would be to endeavor to convince the Nanking authorities for lack of [apparent omission] on their present policy, to offer to meet them to the limit above mentioned and to tell them quite clearly what action—either payment of agreed taxes to consulates with accompanying protection as suggested above or otherwise form of pressure—will be employed if they persist in the attempt to seize tariff autonomy.”

MACMURRAY

893.841 Surtax/14: Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, July 29, 1927—9 p. m.

[Received July 29—8:35 p. m.]

774. Referring to Legation's telegrams 771, July 29, and 773, July 29, repeating telegrams from Shanghai of July 28, 6 p. m., and July 27, 4 p. m., respectively.

1. The Shanghai consular body recommendations set forth in my telegram 773 were considered this morning by the interested Ministers. In regard to the question of holding the Maritime Customs Administration to a responsibility for clearing ships and cargo upon the tender of dues and duties as prescribed by treaties, the recommendations of American shipping interests as referred to the Department in my telegram 771 were also laid before the interested Ministers by me. All of them shared the opinion (to which I myself adhere strongly) that any attempt to hold the Customs Administration responsible would result in the breaking up of the Customs Administration and thus would defeat our own purposes by depriving foreign interests of the only element of system and continuity in the levy of taxes on trade and shipping.

2. In discussing the fourth and fifth paragraphs of the telegram from Shanghai of July 27 it was disclosed that the British are prepared to take action upon this recommendation of the consuls; the French are prepared to recommend such action if practicable in expectation of its approval; the Italians are prepared to act in concert with the predominant majority; the Japanese propose in the first instance to have a parley with the Nanking authorities while at the same time reserving the possibility of drastic action if it is necessary; other nationalities have either approved the recommendation outright or have expressed their willingness to follow the majority. I declared that I did not interpret my present general instructions as giving me authority to participate in the recommended action but

that if that was the sense of the meeting and the Shanghai consular body was to be asked for additional information as to the practicability of certain details of its recommendation in regard to consular collection of duties and in regard to naval protection, we should await such definite instructions in this connection as the Japanese Chargé d'Affaires and I might receive.

3. Although my instructions to date apparently indicate that our Government has no intention of authorizing the use of naval force for preventing or for restraining force used by Chinese local authorities in order to exact illegal charges upon American trade or shipping, it is my feeling that I should take advantage of the opportunity available to obtain instructions from you on this particular case rather than apply my understanding of your views, on my own responsibility, to a set of circumstances under which our refraining from positive action would from that time on forfeit definitely all practical benefits from the provisions of our treaties in this regard. However, once the Nanking regime has established successfully a levy of tonnage or customs surtaxes in defiance of the treaties, not even a speedy disintegration of that particular regime could prevent adoption of the same or of more far-reaching and arbitrary exactions by its successors in control at Shanghai and by all factions elsewhere in China. Thenceforth trade and shipping would be conducted only upon sufferance of any local authorities who might happen at the particular moment to be in physical control of a certain port and interested only in obtaining funds for purposes of continued factional strife. I perceive no alternative to the recommendation of the Shanghai consuls other than an irretrievable and complete abandonment of the treaty safeguards which alone make possible a commerce with the Chinese people in spite of the arbitrary extortions of the various local military leaders. I invite your attention very earnestly to the finality of the results which would follow negative action on our part in facing the present effort to invalidate the treaties.

4. Above is repeated to Shanghai.

MACMURRAY

893.841 Surtax/11: Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 30, 1927—7 p. m.

302. Your 771, July 28 [29th], 3 p. m., and your 773, July 29, 5 p. m. Department by its telegram No. 280 of July 9, 2 p. m., authorized you to instruct Cunningham to clear American vessels without customs clearance provided shipping companies were prepared to face risks involved and preferred this procedure to payment of tonnage surtaxes under protest. In that instruction Department stated that this Government was not prepared to instruct American shipping

interests as to the policy which they should follow in this matter as the Government was not prepared to assume the obligation to protect the companies against such taxes by use of military or naval forces. Department assumes that you have communicated this to Cunningham. For discussion of limitation upon the authority of the Executive to use armed forces of the United States in the absence of authority from Congress please see Department's telegram 214 of September 8, 1924, 5 p. m.⁹⁵

When it authorized above action Department had not been informed of the apparent intimate connection between the Chinese Maritime Customs and the collection of tonnage as well as other surtaxes. It now appears that if the procedure suggested by Cunningham in his telegram to you of July 7, 9 p. m.,⁹⁶ were followed the Chinese Maritime Customs Administration would not only refuse to clear American vessels but might refuse them all customs privileges. This Government is not prepared to proceed to the extreme measures suggested in Cunningham's telegram of July 28, 6 p. m., repeated in your 771, and set up in Shanghai, independent of the Maritime Customs, machinery for the collection from American citizens of Chinese tonnage and customs dues. Even assuming that it would be possible to set up such machinery in Shanghai and to insure its operation within the port of Shanghai by the use of the armed forces of the United States, it could not be guaranteed that American cargo so landed in Shanghai would not be treated by the Chinese as smuggled cargo and confiscated when it passed into territory under Chinese control.

KELLOGG

893.841 Surtax/15 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 1, 1927—2 p. m.

[Received August 1—4:50 a. m.]

780. Legation's 771, July 29, 3 p. m. Following from the American consul, Shanghai:

"Referring to my telegram on tonnage dues, I desire to advise that Shipping Board left to its local representative the decision of clearing *Patrick Henry* through consulate, or paying surtax under protest. It has decided to pay, which decision virtually closes the question locally, unless success attends our protest to Chinese Nationalist Government. This action following so closely upon the resolutions reported in my July 28, 6 p. m. is rather unexpected.

The French and American consuls called upon the Commissioner of Foreign Affairs yesterday to press protest against tonnage sur-

⁹⁵ See *Foreign Relations*, 1924, vol. 1, p. 371.

⁹⁶ See telegram No. 705, July 8, from the Minister in China, p. 434.

taxes, whereupon, the Commissioner informed us that he and C. C. Wu⁹⁷ urged the Minister of Finance to abolish this surtax and that he would today discuss it again with the Minister of Finance who is in Shanghai. The Commissioner requested me to furnish him with comparative statement of tonnage dues of many ports throughout the world and stated his belief that surtax here will be suspended."

MACMURRAY

893.841 Surtax/16: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 1, 1927—3 p. m.

[Received August 1—8:35 a. m.]

781. Your telegram number 302, July 30, 7 p. m. apparently crossed my telegram[s] 774, July 29, 9 p. m., and 776, July 30, 5 p. m.⁹⁸ Shall I await further word from you before informing my colleagues that I cannot participate in any such action as they may take to resist the imposition of dues and duties contrary to treaty?

MACMURRAY

893.841 Surtax/17: Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, August 2, 1927—1 p. m.

304. Your 781, August 1, 3 p. m. In discussions with your colleagues concerning taxes and duties exacted by local Chinese authorities contrary to treaty provisions you should be guided as regards this Government's policy by Department's 302 of July 30, 7 p. m. and previous recent instructions. The Department's instructions do not preclude your discussing any form of joint action your colleagues may propose, provided the use of military or naval force is not involved. Inform colleagues at your discretion.

KELLOGG

893.841 Surtax/18: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 2, 1927—5 p. m.

[Received August 2—8:25 a. m.]

785. Legation's 780, August 1, 2 p. m. Following from American consul at Shanghai:

"August 1, 3 p. m. Referring to my telegram of July 30, noon." I have pleasure in advising that the French steamer *Paul Lecat* was

⁹⁷ Minister for Foreign Affairs in the Nationalist Government at Nanking from May 10, 1927.

⁹⁸ Telegram No. 776, p. 402.

⁹⁹ Refers apparently to consul's telegram quoted in telegram No. 780, Aug. 1 2 p. m., from the Minister in China, p. 445.

cleared under consular clearance yesterday after tender of the legal tonnage dues was refused by the Customs and the dues were deposited with the French consul general. Future developments will be watched with interest. The Messageries Maritimes Company requested the consul for such clearance, it is understood, after receiving instructions from the firm's head office. The Superintendent of Customs in conversation stated to me July 30th that the tonnage surtax would be suspended shortly but he was not yet authorized to make an official announcement."

MACMURRAY

893.841 Surtax/19 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 8, 1927—noon.

[Received August 8—4:47 a. m.]

795. Following from the American consul at Shanghai:

"August 6, 11 a. m. It is now announced that 'on and after August 8th the amount of surtax on all tonnage dues shall be reduced to one-half the amount of the present surtax levy.' This is understood to mean that the total taxes will be 5 mace.

Since the clearance of the *Paul Lecat*, as advised in my August 1, 3. p. m., two other French vessels have been cleared with consular clearance only and no reprisals of any kind have been attempted by the Chinese. The French consul general's instructions are for the ships to recognize any signals made by Chinese which would convey their intention to interrupt voyage. In other words he instructed that no force be used. As was anticipated by me no force has been necessary."

MACMURRAY

893.841 Surtax/24 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 10, 1927—4 p. m.

[Received 4:25 p. m.]

801. Your 304, August 2, 1 p. m. Following from American consul at Shanghai:

"August 9, 5 p. m. Referring to the Legation's telegram July 11, 5 p. m.¹ authorizing upon request the clearance of American vessels with consular clearance only. I regret to find that it is not quite clear that this instruction continues in force to date, therefore I desire to advise the Legation that the Dollar Steamship Company has made formal application for the clearance of their deep seagoing vessels with consular clearance only, the first the *President Taft*, August 12th. Kindly instruct so that no delay may be occasioned.

¹ Not printed; it repeated the Department's instructions as given in telegram No. 280, July 9, to the Minister in China, p. 435.

As previously advised the Messageries Maritimes is clearing with consular clearance only and no obstacles have been placed in their way.

At meeting yesterday of British Steamship Company they were advised by the British consul general that he was prepared to issue their vessels consular clearance and I am now informed that the Blue Funnel Line, the Peninsular and Oriental, and the Glen Line have received instructions from their head offices to clear consular clearances only. The Canadian Pacific Mail Steamship Company, the Prince Line, Ellerman and Bank Lines have applied for permit to their home offices and are awaiting advices.

It is well known that I cannot offer naval protection to American vessels even if clearance is granted; however, I am reliably informed that in the authority to the British consul general to clear vessels the Legation has further stipulated that if necessary naval protection will be afforded. This can probably be verified definitely by the Legation.

An immediate instruction is requested."

I am replying as follows:

"August 10, 4 p. m. Your 127 August 9, 5 p. m.

1. The Legation's 123, August 1, 7 p. m., repeating to you the Department's 302, July 30, 7 p. m., to the Legation amplified the Legation's 84, July 11, 5 p. m., which repeated to you the Department's 280, July 9, 2 p. m., to the Legation. These two telegrams set forth fully the position of the Department with regard to consular clearances of American vessels when faced with a demand for the payment of illegal tonnage dues. The Legation has received no instructions in modification thereof and is aware of no reason why they should not be regarded as continuing in force to date. These instructions construe[d] as meaning that it is optional with American shipping companies whether they pay tonnage surtax (with or without protest) or tender legal dues and receive consular clearances but that if these companies by availing themselves of consular clearance are thereafter denied customs privileges the American Government does not purpose to set up its own machinery for the collection from American citizens of tonnage and customs dues. That contingency must therefore be regarded as one of the risks attendant upon a decision to ask for consular clearance.

2. Therefore you should make wholly clear to Dollar Company the limit upon your ability to extend them assistance in this matter and that they cannot hope to receive, either directly or in the last analysis, the protection of American military or naval forces in resisting payment of tonnage dues even if such protection is forthcoming for vessels of other nationalities and that responsibility for any untoward results of their decision must rest wholly upon the company. I do not mean to convey the impression that the Legation desires you to influence company against the action contemplated by them, but simply that company should not make their decision without a full knowledge of various factors involved, and, in particular, of the attitude of our Government toward this question.

3. At a meeting of the interested Ministers this morning the question of tonnage surtax was discussed and all agreed to instruct their

consuls at Shanghai that payment of tonnage surtax should be optional with shipping companies and that consular clearance would be granted on request in the event of a refusal of the Chinese authorities to accept treaty dues. Japanese Chargé d'Affaires, however, stated that his action would have to be addressed to the Tokyo Foreign Office which thus far considers it premature to take drastic measures without full preliminary discussions with the Nanking regime. The British counselor stated that he had no knowledge of any understanding with his consul general at Shanghai for the use of naval force to protect British vessels in resisting payment of the tonnage surtax.

4. Your telegram above mentioned and this reply are being repeated to the Department."

Should the Department not approve of the foregoing, I request to be informed at the earliest moment.

MACMURRAY

893.841 Surtax/23 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, August 11, 1927—6 p. m.

314. Your 801, August 10, 4 p. m. Department requested by Robert Dollar on August 9 to authorize American Consulate to clear *President Taft* after deposit of normal tonnage dues if Chinese Customs should refuse to accept dues without surtax. To this Department is making the following reply today:

"The question of surtaxes on tonnage dues cannot be separated from the question of proposed increase of import taxes. Article 22 of the Treaty of 1858 provides that if Consul clears vessel before import and tonnage dues are paid he shall be held responsible therefor. The collection of these charges by Consul would necessitate establishment of facilities for the performance of Customs functions which it is not improbable would result in seizure of imports as well as possible attempt to prevent clearance of vessels. This would affect interests of owners of cargoes as well as shipping companies.

Department does not consider that the present situation would justify it in establishing Customs functions in Consulate and which in all probability would not be effective without the use of the armed forces of the United States which might entail serious consequences.

In view of this situation you may care to consider desirability of paying, under protest, the tonnage surtaxes demanded at least for the present.

Consul General at Shanghai has been fully informed of Department's views regarding this subject."

Please communicate the above to the American Consul General at Shanghai for his guidance and information.

CASTLE

893.841Surtax/25 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, August 12, 1927—3 p. m.

[Received August 12—1 p. m.]

805. 1. Legation's No. 773, July 29, 5 p. m. The following reply July 29, 4 p. m., was sent by the Senior Minister to the Senior Consul:

"Please wire as soon as possible whether consular body are convinced that the duties which [according to] paragraph 4 of your telegram would be imposed upon various consulates can be effectively carried out by them.

Also whether in opinion of military and naval commanders necessary protection outside Settlement likewise mentioned in paragraph 5 is a practical proposal."

2. In a telegram dated August 6, 5 p. m., in response to an inquiry from Cunningham as to his participation in discussions of consular body regarding tonnage dues, the Legation advised him as follows:

"August 6, 5 p. m. Your August 5, 5 p. m. While I do not consider that you should unduly restrict yourself in your discussions with your colleagues of the Senior Minister's telegram, it is obvious from the Department's instructions, repeated to you in the Legation's August 4, 6 p. m., that you should not lead your colleagues to believe that you can be associated in any plan which directly or in the last analysis may involve the use of American military or naval forces. You should avoid on the other hand any such categorical statement, unless necessary, as might encourage the Chinese to increased illegality by reason of the belief that the United States would in no case use force to protect its treaty rights."

3. Following telegram, dated August 9th, was sent by Senior Consul at Shanghai to Senior Minister:

"(1) Referring to Your Excellency's telegram July 29th. The consular body carefully considered these questions on August 5th and answered both in the affirmative. It was the opinion that should the Customs continue to issue assessments of duties due on imported articles the carrying out of the fourth paragraph was easily within the power of the various consulates. If the Customs however do not continue to function in this capacity the various consulates would meet the difficulties which they did not regard as insuperable since each would be able to draw upon the general Chamber of Commerce for experts in appraising merchandise, and warehouses could be secured in principle as by the Customs at present. The consul general for the United States of America made it clear that he was not authorized to subscribe completely to this policy.

(2) In regard to paragraph 5 of my telegram July 27th the naval authorities considered the proposal as quite practical. The following is the report of the senior naval officer: 'At a meeting held on the 4th August at which the British, French, Japanese, United States, Spanish, Italian, and the Portuguese senior naval officers were present, the ques-

tion of preventing interference with foreign shipping in the event of the imposition of extratreaty taxes was discussed. As regards the protection of wharves outside the Settlement area, the only nations present [owning?] such wharves are the American, British, and Japanese. It is understood that guards will be provided by the nations concerned. As regards the protection of ships and cargoes in the stream, it was proposed that warships of each nation should look after the sections in their immediate vicinity and protect the property of any other nation in that section. This was agreed to, and the following areas were provisionally allocated: Upper section A to American Navy; upper section B to Portuguese Navy; upper section C and section 1 to Japanese Navy; sections 2 and 3 to French Navy; sections 4, 5 and 6 to British Navy; section 7 to Spanish Navy; section 8 to Italian Navy; Sections 9 and 10 to British Navy; section 11 and [apparent omission] belong to American Navy. It was considered that continual patrol would probably not be necessary but that each warship would require to keep an armed launch or boat ready to proceed at once if any interference was observed.'

(3) The senior American naval officer has handed to the consul general for the United States of America the following comments: 'That contingent on the receipt of proper instructions from superior authorities I believe it is practicable to protect American interests in the subject [*sic*] under control.'

(4) With reference to proposed protection of foreign wharves outside Settlement limits (i. e., on Pootung shore of harbor) it may be added that such protection has been in operation for some months past, guards having only recently been withdrawn from the west point for climatic reasons."

4. I assume than [*that?*] an early meeting of the diplomatic body will be called to discuss the foregoing telegram. I do not believe that the Heads of Legation are in any doubt as to our policy as set forth in the Department's 304, August 2, 1 p. m., and preceding. I shall, however, make certain at any such meeting that [there is] no misapprehension.

MAYER

893.841Surtax/27: Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, August 14, 1927—3 p. m.

[Received August 14—9:22 a. m.]

806. 1. Following from American consul at Shanghai:

"August 14, noon. Acting under the authority of the Legation's telegrams July 11, 5 p. m.;² August 1, 7 p. m.;³ and August 10, 4 p. m., the *President Taft* was cleared at the request of owners only by

² Not printed; it repeated the Department's instructions as given in telegram No. 280, July 9, to the Minister in China, p. 435.

³ Not printed; it repeated the Department's instructions as given in telegram No. 302, July 30, to the Minister in China, p. 444.

consular clearance after Bank of China declined to accept legal tonnage dues at the rate of 4 mace and Customs had refused to issue [a] no-objection slip. The Dollar Company was given all precautionary warnings contained in the Legation's instructions referred to."

2. Department's telegram No. 314, August 11, 6 p. m. was repeated to Shanghai as the Legation's 134, August 13, noon.

MAYER

893.841 Surtax/28 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, August 16, 1927—5 p. m.

316. Your 806, August 14, 3 p. m. The last sentence of Article 22 of the Treaty of 1858 appears to make the Consul responsible to the Chinese authorities for duties and tonnage dues; therefore Department desires to know what steps, if any, the American Consul General took to protect himself and the Government under that Article of the Treaty before granting consular clearance to the S. S. *Taft*.

KELLOGG

893.841 Surtax/29 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, August 16, 1927—10 p. m.

[Received August 16—2:08 p. m.]

811. Department's 314, August 11, 6 p. m. My 806, August 14, 3 p. m.

1. Following from American consul at Shanghai:

"[(1)] Dollar⁴ requests consular clearance on the 18th of *President McKinley* as was done for *President Grant*, *Taft*. The Shipping Board requests clearance *West Ison*, 17th, and steamship *Liberator*, 19th. Have I authority to clear these by consular clearance provided Customs decline to issue clearance upon tender of legal tonnage dues only? Am I to understand that your August 13, noon,⁵ precludes consular clearance in all cases? In view of the fact that Dollars have received instructions to clear it does not seem that your instructions are intended to preclude consular clearance.

(2) If the Department has in mind the first sentence of the last paragraph of my July 27, 3 p. m.,⁶ I desire to explain that I am doubtful of the practicability of clearing coasting vessels (including vessels calling at other Chinese ports) in the manner suggested in my July 7, 9 p. m.,⁷ but I have no doubt as to its being practical for ocean-going vessels, though of course there is a small risk, which the owners must take if the Government does not.

(3) An early instruction is earnestly solicited."

⁴ Robert Dollar, of the Robert Dollar Co.

⁵ Not printed; it repeated the Department's instructions as given in telegram No. 314, Aug. 11, to the Minister in China, p. 449.

⁶ See telegram No. 767, July 28, from the Minister in China, p. 440.

⁷ See telegram No. 705, July 8, 3 p. m., from the Minister in China, p. 434.

2. I respectfully request that the Department's definite instructions in this regard be sent directly to American consul at Shanghai, in view of urgency, and repeated to the Legation.

MAYER

893.841 Surtax/30 : Telegram

*The Secretary of State to the Consul General at Shanghai
(Cunningham)*

WASHINGTON, August 17, 1927—3 p. m.

Legation has repeated to Department your telegram requesting instructions regarding desire of Shipping Board to clear *West Ison* and *Liberator* through Consulate "Provided Customs decline to issue clearance upon tender of legal tonnage dues only."

Department assumes that you have its telegrams to the Legation Numbers 302 of July 30, 7 p. m., and 314 of August 11, 6 p. m., (repeated to you as Legation's No. 134 of August 13, noon) dealing with question of consular clearance for American vessels.

Article 22 of the Treaty of 1858 provides as follows: "If the Consul permits a ship to leave the port before the duties and tonnage dues are paid, he shall be responsible therefor." This, of course, only makes the Consul responsible if the ship leaves port without the payment of treaty duties and tonnage dues. You have been informed by the above-mentioned instructions that this Government is not prepared to establish in the consulates in China machinery for the collection from American citizens of Chinese tonnage and customs dues, for, while this might be a comparatively simple matter as long as it only involved the collection of tonnage dues, the situation would not be so simple if, as indicated by your telegram of July 27, 3 p.m.,⁸ customs duties are involved. Obviously the Consul could not undertake to pass upon question of customs duties in all of its ramifications without setting up the most elaborate machinery which it would not be practicable to do. This would not only require the protection of ships and cargoes, but might conceivably entail the following of goods after removal from customs and while en route to Chinese hands in the interior. Obviously this Government cannot be committed to such an undertaking.

In any case in which you have satisfied yourself that the duties on the goods have been paid, and the shipowner has made a legal tender of the treaty tonnage dues which have been refused and the company desires to take the risk and will adequately guarantee you against any claim for these dues, there would be no objection to your issuing consular clearance to the ship. It should be made clear, however, that neither the Consul nor this Government assumes any re-

⁸ See telegram No. 767, July 28, from the Minister in China, p. 440.

sponsibility towards either the ship or cargo owner in such cases. It is not believed that the consul general could satisfy himself with respect to tender except by accompanying the agent of the ship to the place of payment and witnessing such tender and refusal, of which appropriate record should immediately be made in the consulate.

Repeat to Peking referring to its No. 811 of August 16, 10 p. m.

KELLOGG

893.841 Surtax/35 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, August 26, 1927—1 p. m.

[Received August 26—7:52 a. m.]

832. Department's 316, August 16, 5 p. m. Following from the American consul at Shanghai:

"1. In case of *President Taft* the treaty tonnage dues were deposited with me in the form of certified check to the order of Chinese Maritime Customs. Payment of import duties was guaranteed by the Dollar Company under annual guarantee filed with the Customs and still effective. Export duties were paid prior to lading.

2. In anticipation of possible cancellation by the Customs of annual guarantee referred to above and to meet the Department's wishes Dollar Company has given me a written guarantee to safeguard the United States Government, United States consul general, and Edwin S. Cunningham, from any liability under article 22 of the treaty of 1858 arising out of clearance of their vessels by consular clearance only. Similar guarantees will be required of other American owners or agents as condition precedent to consular clearance.

3. At the request of the Dollar Company and under guarantee referred to in paragraph 2 above, *President McKinley* was cleared at 10 a. m., August 19th, by consular clearance only and cleared port at 5 p. m. on August 20th."

MAYER

893.841 Surtax/36 : Telegram

The Acting Secretary of State to the Consul General at Shanghai (Cunningham)

WASHINGTON, August 26, 1927—6 p. m.

Department has been shown cable of August 23 from Shanghai office U. S. Steel Products Company reading in part "Have cleared S. S. *Mobile City* without payment illegal 25 per cent surtax tonnage dues on the advice American Consul."

Department's telegram to you of August 17, 3 p. m., did not instruct you to advise steamship owners not to pay tonnage surtax. Question should be left to decision of Steamship Company at whose risk clearance is given.

CASTLE

893.841 Surtax/37 : Telegram

The Consul General at Shanghai (Cunningham) to the Secretary of State

SHANGHAI, August 27, 1927—8 p. m.

[Received August 27—10:20 a. m.]

Referring to Department's telegram of August 26, 6 p. m., the report is incorrect. The steamship *Mobile City* was cleared with consular clearance only upon written request of acting manager of the United States Steel Products Company, Shanghai, after he had been informed in accordance with Department's telegram of August 17, 3 p. m., that such clearance was at company's risk and after he had filed with me guarantee similar in form and tenor to that executed by the Dollar Company and referred to in my telegram August 25, 3 p. m. to the Legation.* The decision as to the course of action was left entirely to the United States Steel Products Company. The substance of the Department's telegram of August 17, 3 p. m., was made known to company's acting manager, resulting in his filing guarantee above referred to.

2. Copies of form letters are being forwarded by next mail which will clearly show that no advice not to pay surtax has been given but each firm has been studiously urged to make its own decision and accept full responsibility for all eventualities and that the United States Government could accept no responsibility whatsoever.

CUNNINGHAM

893.841 Surtax/40 : Telegram

The Consul General at Shanghai (Cunningham) to the Secretary of State

SHANGHAI, August 31, 1927—5 p. m.

[Received August 31—6:40 a. m.]

Referring to [the Department's] August 17, 3 p. m., and other telegrams exchanged between this office and the Legation. It is published in today's vernacular press that the surtax tonnage dues have been abolished. This has been confirmed verbally by the Commissioner of Foreign Affairs to me as being effective September 1st.

Repeated to the Legation.

CUNNINGHAM

* Refers apparently to consul general's telegram quoted in telegram No. 832, Aug. 26, from the Minister in China, p. 454.

893.841 Surtax/41 : Telegram

The Consul General at Shanghai (Cunningham) to the Secretary of State

SHANGHAI, September 2, 1927—4 p. m.

[Received September 2—7:27 a. m.]

Referring to my telegram of August 31, 4 [5?] p. m. Dollar Line steamship *President McKinley* was cleared by the Customs yesterday on payment of treaty tonnage dues and without payment of the tonnage surtax. The Customs issued the usual 4-months' tonnage-dues certificate to the vessel, the period of its validity running from August 19th, the date of the last previous entry of the vessel, when it was cleared by consular clearance only.

2. It appears probable that upon their next entry similar settlement will be made of the tonnage dues on the steamships *President*, *The Cooperation* and *Stanley Dollar* of the Dollar Line and *Mobile City* and *Steel Worker* of the United States Steel Products Company, the only other vessels cleared by this office by consular clearance only. Repeated to Legation.

CUNNINGHAM

893.841 Surtax/47 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 5, 1927—8 p. m.

[Received October 5—4:12 p. m.]

912. Following from American consul general at Shanghai:

"October 5, 1 p. m.

1. Referring to my telegram September 2, 4 p. m.¹⁰ and other telegrams regarding surtax on tonnage, Customs authorities have now approached shipowners of vessels cleared by consular clearance only, offering to issue new tonnage-dues memoranda in exchange for offering ones presented by consular officers to Customs bank before issuing clearance and to issue tonnage-dues certificates for 4 months from date of consular clearance. I consider this satisfactory as do American shipowners.

2. Some of my colleagues are inclined to favor deductions [*deducting?*] from tonnage dues deposited with them the amount of tonnage surtax paid to the Customs under protest. This question will be discussed by the consuls general concerned on October 6. I am not in sympathy with such attitude since the surtaxes are not a part of the treaty dues and this procedure might lead to undesirable practices.

3. The tonnage surtaxes paid under protest by American firms amount to 3,981 Shanghai taels and 32 tael cents."

MAYER

¹⁰ See telegram of the same date to the Department, *supra*.

893.841 Surtax/46: Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, December 17, 1927—4 p. m.

416. Shanghai despatch to the Department No. 4948, September 9, 1927, page 16.¹¹

What disposition has been made of tonnage dues deposited with the American Consulate General at Shanghai?

KELLOGG

893.841 Surtax/50: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 23, 1927—1 p. m.

[Received December 23—9:28 a. m.]

1119. Your 416, December 17, 4 p. m. Following from consul general at Shanghai:

"December 21, noon. Referring to the Legation's telegram 262.¹² All certified checks covering tonnage dues have been deposited with the Commissioner of Customs or returned to the shipping company upon issuance and presentation to the consul general of tonnage-dues certificate expiring four months after clearance of the vessel by consular clearance only."

MACMURRAY

DISINCLINATION OF THE UNITED STATES TO INTERVENE IN MATTERS RELATING TO THE ADMINISTRATION OF THE CHINESE MARITIME CUSTOMS

893.51/5009: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 1, 1927—5 p. m.

[Received February 1—10:35 a. m.]

104. 1. Presidential mandate under date of January 31st¹³ dismiss[ed] Sir Francis Aglen from office of Inspector General of Customs, appoint[ed] A. H. F. Edwardes Acting Inspector General of Customs, accept[ed] Ts'ai T'ing-kan's resignation as Director General of

¹¹ Not printed; the pertinent portion of the despatch reads: "I am still holding the certified cheque covering the treaty tonnage dues on the S. S. *President McKinley*, as well as the dues deposited on the other four vessels. The Consular Body will meet on September 13 to discuss a proposal to utilize the treaty tonnage dues deposited with the Consulates to offset the tonnage surtax payments made under protest by the depositors. I am not in sympathy with this proposal but out of courtesy to my colleagues and at their request I have consented to hold the dues deposited with me until this proposal has been discussed." (File No. 893.841 Surtax/45.)

¹² Not found in Department files.

¹³ Not printed.

Revenue Council and specially appoint[ed] Lo Wen-kan as concurrently Acting Director General of Revenue Council.

2. Presidential instruction number 1, issued under same date to Minister of Finance and new Director General of Revenue, states that Aglen has been dismissed and replaced by Edwardes who has been directed to act as Inspector General of Customs in carrying out the duties of the office. All loans and indemnities secured on customs shall be handled as before in accordance with original treaties and contracts. Matters connected with payment of principal of domestic bonds as have in the past been entrusted by Government to the care of Aglen shall continue to be handled in accordance with original records by Edwardes. Minister of Finance and Revenue Council shall accordingly issue appropriate orders obedient to this instruction and shall inform Chinese and foreign business people and nationals that they may reflect on the worthy intention of the Government to recognize Customs matters and maintain the national credit and that they may not harbor unwarranted suspicion of the constitutional guarantees and anxiety.

MACMURRAY

893.51/5011 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 5, 1927—9 p. m.

[Received 9:25 p. m.]

114. My telegram number 104, February 1, 5 p. m.

1. Meeting of interested diplomatic representatives was held yesterday evening at which Aglen stated that when the collection of surtaxes by the Maritime Customs was first mooted 2 months ago he had conferred with officials of Ministry of Finance and Revenue Council and other interested financial authorities and had obtained their assent to his contentions that it would be actually impossible for the Customs to collect in opposition to dissent of any of the treaty powers such as Japan. Thereafter when visiting Hankow on service business he had been told by Eugene Ch'en¹⁴ that if Customs at any time anywhere in China undertook to collect surtaxes Nationalists would consider it "an act of war" and would do their utmost to "smash" Customs even though they realized its value to China and would otherwise be anxious to preserve it. Shortly afterwards while still in the South he had been notified by the same Peking authorities who had acknowledged its impossibility that he must have the Customs make the collections; and 2 days later, without opportunity for further con-

¹⁴ Minister for Foreign Affairs in the Nationalist Government at Hankow.

sideration he was informed that he had been relieved of his functions as Inspector General for failure to carry out this order.

2. Aglen explained that effect of order was to impose upon the Customs duties which could not be fulfilled in opposition to the Japanese protest in any port except perhaps Dairen and the attempt to carry out which would result in immediate breaking up of the Customs in the ports under the Nationalist control. Any successor in [apparent omission] must confront the same dilemma that had led to his dismissal. He furthermore pointed out that the appointment of successor by the Peking authorities in itself raised an issue with the Nationalist authorities and would equally certainly lead to break-up of the Customs.

3. Upon the question being whether the diplomatic representatives were prepared to make representations in any form to the Peking authorities with a view to dissuading them from a course of action so injurious alike to foreign and to Chinese interests, the British, French and Italian Ministers and even more emphatically the Japanese Minister declared their readiness to cooperate in any practicable steps to that end. I reserved judgment for the time being. The other representatives declared themselves willing to cooperate at any rate in the event of unanimity being reached. A committee was designated to draw up the basis of such representations. I consulted with the committee today with a view to formulating a statement and a course of action with which I felt able under your instructions to cooperate in representations to the Chinese on a basis not of a right but of a common interest in averting a disaster to the interests of foreign trade and of Chinese financial arrangements. As a result of this conference Senior Minister is proposing to his colleagues that together with such of them as wish to accompany him he should shortly wait upon Dr. Koo¹⁵ and, in behalf of all the Ministers concerned, urge the inadvisability of persisting in a course of action which would prove ruinous. Primary emphasis would be laid upon the advisability of persuading Chang Tso-lin¹⁶ to find some way of avoiding the necessity of carrying out the order to the Customs to collect the surtaxes. Secondly, it is hoped that means may be found to avoid immediate dismissal of Aglen in accordance with mandate, in order to force an issue with the South. In connection with this discussion with Koo it is proposed to hand him a memorandum in the following terms, which might in turn assist him in laying the matter before Chang:

"The diplomatic representatives of the Governments concerned, having taken note of the Presidential mandate of 31st January last, re-

¹⁵ Dr. V. K. Wellington Koo, Minister for Foreign Affairs, and concurrently Premier, of Peking Government.

¹⁶ Military ruler of Manchuria and Generalissimo of military and naval forces of Chinese Government at Peking.

lieving Sir F. Aglen of his office of Inspector General of Customs, feel impelled to make the following statement:

Firstly, this removal from office arises from the fact that it is a physical impossibility for the Inspector General to carry out the order to levy upon foreign imports certain taxes which do not rest upon traders [*treaty?*] basis, and to which not all the Governments concerned have given their consent. The attempt to execute such an order would constitute a danger to the very existence and functioning of the Customs Administration, thus affecting the trade of all foreign countries and impairing the security of China's contractual obligations.

This danger renders it vital alike in the interest of China and of the foreign nations that the above order be rescinded or recast, and the diplomatic representatives above mentioned find themselves obliged to urge that this be done.

Secondly, they wish to recall to mind the declaration made by the delegation to the Washington Conference 'that the Chinese Government have no intention to effect any change which may disturb the present administration of the Chinese Maritime Customs'.

The sudden removal from office of the present Inspector General of Customs for failure to execute an order impossible of execution clearly involves such a disturbance as was guarded against by that declaration.

There is therefore no option but to hold the Chinese Government to their word and to urge that no such disturbances be created by the removal from office of a tried government servant for causes beyond his control."

4. I was today visited by Chang, vice governor of the Bank of China, who gave me to understand that while Chinese banking interests are fearful of coming out into the open, they are contemplating exercising their influence as strongly as possible with a view to preventing catastrophe which they feel would be involved in the break-up of the Customs organization which in spite of factional jealousies has hitherto been able to maintain its status as the sole administrative institution which could function throughout China and in behalf of China as a whole and has remain[ed] the sole stable element in Chinese finance and in the foreign trade of the country. Such action on their part would likewise be directed to finding some means by which, without loss of face, Chang Tso-lin and his political subordinates in the Cabinet could nullify the effects of the order and of mandate.

MACMURRAY

893.51/5011 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, February 7, 1927—3 p. m.

50. Your 114, February 5, 9 p. m. I do not desire you to participate in representations of the kind described in paragraph 3 of your telegram.

KELLOGG

893.51/5012 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 8, 1927—2 p. m.

[Received February 8—11:15 a. m.]

122. My telegram number 114, February 5, 9 p. m.

1. Senior Minister, accompanied by British, French, Italian and Japanese Ministers and myself, yesterday called on Koo and in the course of a friendly but very earnest discussion pointed out the apprehension with which all the foreign representatives regarded the break-up of the Customs organization which they considered inevitable if the Government were to persist in its present course. For my own part I emphasized that, while claiming no right to interfere in matters of Chinese internal administration, I felt the most serious solicitude lest by forcing an issue in regard to the functions of the Customs the Peking authorities would bring about the destruction of that organization which would be a disaster to both Chinese and foreign interest[s] and would in particular create chaotic conditions and innumerable points of friction in the foreign trade of China.

2. Although at first he took the somewhat lofty tone that "the Central Government" could deal with such minor administrative matters without any occasion for alarm, and utterly ignored the actual circumstances under which the Customs would find it impossible to carry out the orders of the Peking regime, Koo during the general discussion professed to learn as a new and important fact the conviction of the foreign representatives that the Nationalists would really impair the integrity of the Customs Administration if it were to attempt to collect surtaxes for Peking. He asserted that the Northern regime appreciates the indispensability of the Customs Administration and earnestly desires to preserve it; and in the light of this new revelation he said that the Cabinet would consider the whole question afresh. Somewhat unguardedly he also let it appear that the Peking regime is in fact already considering means of undoing its hasty action reported in my No. 104, February 1, 5 p. m. In his reply he expressed his appreciation of our friendly and helpful discussion of the problem and reiterated that "his Government" regards the preservation of the Maritime Customs as essential.

3. The impression made upon my colleagues and myself was that he had realized the folly of the action taken and in fact welcomed our representations as a basis for asking reconsideration without personal loss of face. This surmise accords with the fact that he had on the previous evening sent a private intermediary to inquire

of me my personal opinion on the question. I gather that the whole question arose out of the fact of irresponsible advisers having persuaded Chang Tso-lin that by having the Customs collect the surtax he could get his hands on the very considerable proportion (about 40 percent for all China) now being taken in at Shanghai by his nominally subordinate rival, Sun Ch'uan-fang.¹⁷ Thanks largely to the pressure of the Chinese bankers who would be ruined by the disrupting of the Customs it is now beginning to be understood that this attempt to deprive the Customs of its national character and make it subservient to the particular military group controlling Peking would kill the goose.

4. Your telegram No. 50, February 7, 3 p. m., has just been received. I regret having taken action which proves to have been not in accordance with your desire. From your previous instructions, particularly your number 286, November 29, 1 p. m., 1926,¹⁸ had not inferred that you wished me to disinterest myself in the Customs beyond the point of refusing to intervene as of right or to assume responsibilities for its maintenance.

MACMURRAY

S93.51/5015 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 10, 1927—5 p. m.

[Received February 10—9:15 a. m.]

130. My telegram number 122, February 8, 2 p. m.

1. British Minister today informed his colleagues that on the 8th instant he had been approached by Wang Ch'ung-hui,¹⁹ as an intermediary in behalf of the Government, with the statement that while the Cabinet could not actually retract its mandate dismissing Aglen it was anxious to find a way out of the difficulties it had created with regard to the continued functioning of the Customs. The result of negotiations among British Minister, Aglen and Wang was a definite assurance that the Government would not enforce the order requiring the Customs to collect surtaxes, that Aglen would be allowed to continue nominally as Inspector General for a year on home leave and

¹⁷ Nominal overlord of Provinces of Kiangsu, Kiangsi, Chekiang, Fukien, and Anhwei, and concurrently director general of Shanghai and Woosung Port Administration, allied with the Peking Government.

¹⁸ Not printed.

¹⁹ Also known as C. H. Wang and Liang-ch'ou; chairman, Law Codification Commission, Peking. Formerly held offices as Chief Justice of the Supreme Court, as Premier, as Minister of Justice, and as Minister of Education, and was chairman of Chinese delegation of International Commission on Extraterritorial Jurisdiction, 1926.

that Edwardes would take charge as Acting Inspector General with the understanding that he would assume responsibility for service of existing domestic loans but for no further ones. Effect was given to this arrangement by a letter which the Revenue Council with the approval of the Cabinet addressed to Aglen February 9, acknowledging appreciation of his services and offering to accede to his repeatedly expressed desire to be relieved from his functions.

2. Face-saving solution thus reached has, however, been jeopardized by the attitude of Nationalists. Aglen has just received from Commissioner of Customs in Hankow telegram saying that Eugene Ch'en had intimated to him that disappearance of the present Inspector General would create a new situation. The Commissioner construed this to mean that Nationalists would refuse to recognize successor appointed by Peking and would take over all customhouses in Southern territory.

3. Through the same go-between, who is understood to have relations with Southern as well as with the Northern factions, British Minister is endeavoring to obtain Cantonese acquiescence in the compromise arrived at with Peking.

MACMURRAY

893.51/5016 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 14, 1927—5 p. m.

[Received February 14—10:25 a. m.]

139. 1. In accordance with the arrangements indicated in my telegram 130, February 10, 5 p. m., Aglen made over charge of the Maritime Customs to Edwardes on February 11th. Nationalist regime has however appointed a commission to report on the new situation created by Aglen's dismissal; and though as yet without official confirmation Customs Administration expects Hankow authorities will refuse to recognize change of Inspector General as Reuter telegram reports as their announced intention.

2. Nationalists are threatening to take over offices of the Salt Administration at Hankow, Changsha and Nanchang[*fu*]. Salt officials are attempting negotiations but regard seizure as a foregone conclusion.

3. Postal Commissioner at Hankow has reported to his administration here that Nationalist regime desires to make all future appointments of postal commissioners in territory under its control.

MACMURRAY

893.51/5017 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 18, 1927—11 a. m.

[Received February 18—8:02 a. m.]

150. My 139, February 14, 8 [5] p. m., paragraph 3. Following from Hankow:

"February 17, 6 p. m. Nationalist Government has demanded that building now occupied by Salt Gabelle be vacated within a month for use as Ministry for Foreign Affairs, the Salt Gabelle to be removed to building now occupied by the Ministry."

MACMURRAY

893.51/5019 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 19, 1927—3 p. m.

[Received February 19—6:52 a. m.]

156. My 139, February 14, 5 p. m.

1. Mr. Kishimoto,²⁰ Commissioner of Customs at Dalny, arrived in Peking last evening to take up his duties as chief secretary of the Customs. This is a personal appointment by Edwardes after a conversation with and concurrence of British and Japanese Legations.

2. Edwardes told counsellor²¹ that he had felt for a long time wisdom of the appointment of a Japanese as "number 2" in the Customs. He believes this to be not only just but probably the best move that could be made to try and save the organization from immediate disruption.

3. Aglen has addressed a personal letter to Eugene Ch'en soliciting him to acquiesce in Edwardes' acceptance of office. No reply has thus far been received to this, and the matter is therefore not yet stabilized.

MACMURRAY

893.51/5028

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 21, 1926 [1927].

No. 935

[Received April 4, 1927.]

SIR: I have the honor to refer to my telegram No. 156, February 19, 3 p. m., regarding the appointment of Mr. Kishimoto, a Japanese subject, Commissioner of Customs at Dairen, to be Chief Inspector of that Service.

In this regard Mr. Mayer, the Counselor of the Legation, recently had an illuminating conversation with Mr. Edwardes, newly ap-

²⁰ H. Kishimoto.

²¹ Ferdinand L. Mayer, U. S. counselor of Legation in China.

pointed Inspector General of Customs, when the latter told him of the impending appointment of Mr. Kishimoto and made some interesting observations in regard to the effort he had made for the past year or so with a view to giving the Japanese more participation in the Customs. Mr. Edwardes said that he had felt for a long time the wisdom of such a move, if for nothing else in order to appease the Japanese who felt their present position with the Customs to be most inequitable and eminently undesirable. In making known these personal views to the Japanese Minister here, and to Mr. Saburi,²² on different informal occasions, Mr. Edwardes found them both entirely reasonable in their wishes regarding Japanese participation in the Customs. It would appear indeed not unlikely that the strong attitude adopted by the Japanese Government in support of the maintenance of the Customs (see paragraph 3 of my telegram No. 114, February 5, 9 p. m.) was due primarily, at least, to the *rapprochement* between Mr. Edwardes and the Japanese, as discussed above, and the latter's feeling that Mr. Edwardes' ideas would prevail if the Customs continued to function and he were made Chief Inspector. It is of course possible that an understanding of sorts was arrived at between Mr. Edwardes and the British, on the one hand, and the Japanese Minister on the other.

It is yet too soon to be able to know definitely whether the Nationalists can be prevailed upon, along with the Northerners, not to disrupt the Customs service. But, if this happily may be achieved, it will be due substantially to the steadfast and clearcut support which the Japanese Government has given to the attempt of the British, French, Italian and Netherlands Governments to preserve this last financial, and indeed governmental, link between the Chinese people as a whole and the Foreign Powers.

I have [etc.]

J. V. A. MACMURRAY

893.51/5040 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, June 10, 1927—4 p. m.

[Received June 10—10:26 a. m.]

635. 1. Wang Ch'ung-hui informed the British Minister,²³ during the latter's recent visit to Shanghai, that the Nanking regime had determined to appoint its own Inspector General of Customs for the territory which is under Nationalist control, the appointee to be a foreign member of the Customs (evidently Maze, the Commissioner of Customs at Shanghai, being slated) who should be given *sub rosa* authorization to maintain relations with Edwardes, the officiating

²² S. Saburi, Director of Commercial Affairs in the Japanese Foreign Office.

²³ Sir Miles Lampson.

Inspector General, and the revenues collected to bear their due share of the existing indemnity and loan charges upon customs revenues.

2. I am informed by Lampson that he spoke very emphatically regarding the inexpediency of such action, whereby foreign trade interests would be antagonized and the ruin of Chinese credit would be completed at a time when there is a prospect that the ripe plum may be grasped by the Nationalists. Wang heartily agreed, Lampson informed me. Although it appears that the matter is momentarily in abeyance, there are clear indications of the probability that it will arise again soon.

3. I should like to be instructed by you as to whether I am correct in the assumption that you would wish me to join in representations which are based upon expediency as viewed from the standpoint of Chinese interests, but not to take part in any protest on the basis of interests or rights where the integrity of the Maritime Customs Administration is concerned.

MACMURRAY

893.51/5040 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, June 13, 1927—2 p. m.

252. Referring to Legation's June 10, 4 p. m., number 635, paragraph 3. Considering the difficulty of determining the Chinese interests involved under the present circumstances, the Department does not wish that you join in any representations in regard to the integrity of the Maritime Customs Administration. Your attention is invited to the Department's instruction No. 286 of November 29, 1926,²⁴ and its telegram No. 50, February 7, 1927, 3 p. m., in this connection.

KELLOGG

DECISION OF AMERICAN GOVERNMENT NOT TO EXERCISE RIGHT TO HAVE AN OFFICIAL WATCH THE PROCEEDINGS IN SUITS BY AMERICAN PLAINTIFFS AGAINST CHINESE DEFENDANTS

893.05/89 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 11, 1927—1 p. m.

[Received 3:15 p. m.]

133. The following from American consul, Hankow:

"February 10, 3 p. m. The Hsiakow magistrate here has notified me in writing and other consular officers here that the Central Execu-

²⁴ Not printed.

tive Committee of the Nationalist Government has passed the following resolution:

"The trial by the Hsiakow's court of mixed cases should be stopped; such cases should be tried and adjusted by the Hankow city court but the Peking procedure should be disapproved and the witnessing of the trial should be rejected."

The 'witnessing' relates to the presence of a consular representative. The magistrate states he will at once discontinue accepting jurisdiction over mob violence cases. The instruction was received by the Hsiakow magistrate from the Hupeh Political Affairs Commission. I had no previous notice and hoped in the usual course of correspondence such notice would come from him or from the office of the Commissioner of Foreign Affairs definitely. He asked that no action be taken in the matter until he has communicated directly with me and it is now reported to you for information only. Mail despatch²⁵ containing further details follows."

MACMURRAY

S93.05/91 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 19, 1927—6 p. m.

[Received February 19—9 a. m.]

159. 1. The Department's 61, February 15, 4 p. m.²⁶ Before instructing Lockhart in the sense indicated in paragraph 5, following from Hankow is transmitted for the Department's consideration:

"February 16, 6 p. m. My February 10, 3 p. m.²⁷ No communication has been received from Ch'en²⁸ and it is known he has not communicated with the Hsiakow magistrate. Since the magistrate is declining to accept new cases and has stated that he has transferred all pending cases to the Hankow city court, thus arbitrarily depriving Americans of a treaty right, I request telegraphic instructions. This is another example of high-handed methods employed by the Chinese authorities here and perhaps is the first step towards a general abrogation of the rights granted by treaty. American businessmen are greatly concerned and if this action is permitted to stand they will have but little, if any, recourse in obtaining redress in legal proceedings to which they may be a party."

2. If we are not to protest against repudiation of the rights granted by China to the United States by article 4 of the treaty of 1880,²⁹ I believe that as a matter of method of procedure it would be preferable to inform our consuls that the American Government, with a view to carrying out section 2 of article 4 of the recommenda-

²⁵ Not printed.

²⁶ *Ante*, p. 382.

²⁷ See telegram No. 133, Feb. 11, from the Minister in China, *supra*.

²⁸ Eugene Ch'en, Minister for Foreign Affairs in the Hankow Government.

²⁹ Malloy, *Treaties*, 1776-1909, vol. I, p. 239, 240.

tions of the Extraterritorial Commission ³⁰ does not, pending a readjustment of our treaty relations, purpose (except in unusual circumstances) to exercise option of sending consular deputy to watch cases brought by American citizens against Chinese defendants. American citizens would, as a rule, continue to demand presence of a consular deputy if they had reason to believe that his presence might be obtained. I therefore urge, as an alternative to yielding under protest, the more direct course suggested with a view to clarifying our attitude and fortifying position of our consular representations. Such a decision would of course not include provisional court at Shanghai where a special agreement has been made for a limited period and possibly not the mixed court at Amoy. It would, however, be necessary formally to acquaint the Chinese authorities with such a purpose as well as representatives of the powers signatory or adhering to the extraterritoriality.

3. Please instruct.

MACMURRAY

893.05/91 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, February 23, 1927—2 p. m.

70. Your 159, February 19, 6 p. m. Department approves method of procedure outlined in paragraph 2 of your telegram and you are authorized to instruct consuls accordingly requesting them to inform local Chinese authorities. You are also authorized to inform your colleagues of this Government's decision in this matter.

GREW

893.05/93 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 12, 1927—5 p. m.

[Received March 12—1:10 p. m.]

212. 1. The Legation on March 11 by circular telegram instructed all China consuls in the sense proposed in the Legation's 159, February 19, 6 p. m., and authorized in the Department's telegram 70, February 23, 2 p. m. Consuls were instructed to inform respective Commissioners for Foreign Affairs.

2. I also despatched the following note to all of my colleagues whose Governments were signatories of or adhered to the extraterritoriality resolution.

³⁰ Department of State, *Report of the Commission on Extraterritoriality in China, Peking, September 16, 1926* (Washington, Government Printing Office, 1926), p. 108. Recommendations are also quoted in telegram No. 412, Sept. 17, 1926, from the Chargé in China, *Foreign Relations*, 1926, vol. I, p. 979.

"Under instructions from my Government I have the honor to inform you that, with a view to carrying out the provisions of the first sentence of section 2 of article 4 of the recommendations contained in the report of the Commission on Extraterritoriality in China, my Government does not, pending readjustment of treaty relations with China, purpose (except in unusual circumstances) to exercise the rights granted by article 4 of the Sino-American commercial treaty 1880 insofar as relates to an American official watching proceedings, et cetera, in cases brought by American plaintiffs against Chinese defendants. This decision does not include cases brought in Shanghai provisional court where a special agreement has been made for a limited period or cases brought in the International Mixed Court at Kulangsu (Amoy)."

3. Simultaneously with the despatch of the circular telegram above referred to, the following was received from the American consul general at Hankow:

"March 10, 3 p. m. My March 8, 3 p. m. Eugene Ch'en told me this morning that the Nationalist Government has appointed a committee to investigate and evolve a plan for the establishment in the near future, perhaps within a month, of a modern Chinese court to try cases in which foreigners are plaintiffs against Chinese. The investigation is now in progress."

MACMURRAY

EMBARGO BY THE CHINESE NATIONALIST GOVERNMENT AT NANKING ON THE SHIPMENT OF SILVER AND GOLD

893.51/5042 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 23, 1927—5 p. m.

[Received July 24—10 a. m.]

753. 1. The American consul general at Shanghai reported July 14th that the Nanking Government had placed restrictions on export of silver and had ruled that gold and silver bars and coin could not be exported from Shanghai without a huchao from the Ministry of Foreign Affairs at Nanking. In subsequent telegrams, he further reported to the following effect: That the National City Bank requested permission to ship Taels 500,000 on an American warship to its Tientsin branch, as failure to make such transfer would cause very large premium on exchange between Shanghai and the North; that the Commissioner of Customs had notified him of the following detailed instructions of Nanking its [*in?*] relation to the embargo on Treasury coins: (1) bank notes may be moved without restriction, (2) minted currency may not be exported or transshipped from or through Shanghai, (3) gold and silver bars and sycee cannot be moved to places outside jurisdiction of the Nanking Government but may be moved

freely to places within that jurisdiction; that the Hongkong and Shanghai Bank and the Chartered Bank had made arrangements to ship silver to Tientsin by British naval vessels; that the National City Bank had requested, in the event that American Navy cannot arrange to carry silver, that consul general approach British consul general for permission to ship 5 lakhs at the end of July on the British warship *Durban*; that the bank stated that failure to get specie North would embarrass Tientsin branch in paying the army; that the bank had applied on July 16th for a permit to ship 5 lakhs but had received no reply; that he had requested of Commissioner of Foreign Affairs to expedite reply; and that he did not think proposed action to ship by naval vessel should be delayed as a favorable decision by the Chinese authorities we [*was?*] unlikely.

2. A few days ago I was approached by the local representative of the National City Bank on this matter; but I replied that in the light of my general instructions, I did not feel that I could undertake to sanction transportation of silver by American naval vessels and I suggested that New York office of bank might desire to discuss the question direct with the Department. Bennett indicated that this course would be followed.

3. I am of the opinion that embargo between Chinese ports which prevents American citizens from shipping silver in the normal course of banking and business requirement (provided such shipments are not conveyed for the interests of Chinese or other nationals) is a violation of our treaty rights. See treaty 1850, article 15³¹ and treaty of 1858, articles 14 and 15.³²

4. Should the Department, however, be reluctant to give its general approval to the transportation of silver by American naval vessels, I think that the probability of the American Government being embarrassed in the making of necessary disbursements in connection with the maintenance of the infantry and marine forces now in Tientsin, does present a new issue and to involve more or less fundamental questions affecting the appropriate protection of American life and property³ for which purpose those forces have been despatched. I therefore suggest that I be authorized to instruct Cunningham,³³ in the event of further obstruction by the Chinese Army, that he may approach American naval authorities with a view to shipment by them to Tientsin of such an amount of silver as may be needed by the National City Bank in connection with disbursements involving expenditures of the American Government.

³¹ There is no treaty of 1850 between the United States and China. This refers apparently to art. xv of the treaty of peace, amity, and commerce, signed at Wang Hiya July 3, 1844; Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 4, pp. 559, 564.

³² Treaty of peace, amity, and commerce, signed at Tientsin June 18, 1858; Malloy, *Treaties*, 1776-1909, vol. i, pp. 211, 216.

³³ Edwin S. Cunningham, consul general at Shanghai.

5. The suggestion that American citizens be supported in a request to arrange silver shipments by British war vessels is, of course, not to be countenanced.

MACMURRAY

893.51/5042 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 25, 1927—4 p. m.

294. Your 753, July 23, 5 p. m. Department is not prepared to give its approval to the transportation of silver by American naval vessels from one port of China to another merely for the purpose of reducing premiums on exchange. It is not convinced that such approval is necessary for the purpose of facilitating the payment of troops and marines at Tientsin as it believes that money for this purpose may be obtained and transported by naval vessels without necessarily utilizing the facilities offered by the bank.

KELLOGG

893.51/5058 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, November 19, 1927—1 p. m.

[Received November 19—1 p. m.]

1009. Department's 294, July 25, 4 p. m. Following is substance of radio from commander in chief,³⁴ dated November 16:

"After consultation with the American consul general a shipment of silver to Hankow by a destroyer has been made to [at?] the urgent request of the National City Bank of New York. This was done to protect bank's credit and upon assurance that the silver would not be used for new commitment; also, after endeavor had been made to obtain permit from local Chinese authorities. There will be no resultant unfavorable reaction on the part of the Chinese authorities, all circumstances considered, it is believed."

MAYER

893.51/5060 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, November 25, 1927—3 p. m.

[Received November 25—2 p. m.]

1031. My 1007 [1009], November 19, 1 p. m. Following from Shanghai consul general in response to Legation's inquiry as to his participation in this matter:

"November 22, 11 a. m. Referring to the Legation's telegram November 19, noon. On November 4 this consulate general in strict

³⁴ Admiral Mark L. Bristol, U. S. N., commander in chief of the Asiatic Fleet.

accordance with your instructions of July 27, 7 p. m. supported National City Bank's application to Superintendent of Customs for shipment of silver to Hankow. After waiting one week without any official action on application, Superintendent of Customs holding himself incommunicado, bank requested direct assistance from Admiral Bristol who in a personal conversation later informed me definitely of his decision to render bank assistance in the matter unless Chinese authorities gave early intimation of their intention to act on repeated applications of bank. Have been supplied with no information as to subsequent action taken. Commander in chief carrying out your instructions of July 27, 7 p. m."

MAYER

CONTINUED NEGOTIATIONS CONCERNING THE FEDERAL TELEGRAPH COMPANY'S CONTRACT WITH THE CHINESE GOVERNMENT³⁵

893.74/741 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 12, 1927—10 a. m.

[Received January 12—5:56 a. m.]

24. Your telegram number 251, October 28, noon.³⁶

1. I understand that Chinese Telegraph Administration is proposing to accept invitation to conference at New York but that appointment of representative has been delayed in consequence of disorganization in the Ministry of Communication.

2. My informant intimated that further reason for delay was perhaps fear or unwillingness of the Chinese to commit themselves until the Japanese have indicated willingness to participate.

3. Repeated to Tokyo as my number 2, January 11, 11 a. m.

MACMURRAY

893.74/749a : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, April 23, 1927—6 p. m.

182. Your 24, January 12, 10 a. m. For your information. Radio Corporation informs Department that as result of American communications of October last to Japanese and Chinese Government[s] it had felt encouraged to continue support of Federal Telegraph Company of Delaware, but that it now feels that it cannot continue such support much longer. Department is requesting Japanese Embassy to reply to memorandum of October 28 last.³⁷ Please report present situation and prospects for any future action by Peking authorities.

KELLOGG

³⁵ Continued from *Foreign Relations*, 1926, vol. i, pp. 1040-1092.

³⁶ *Ibid.*, p. 1091.

³⁷ *Ibid.*, p. 1082.

893.74/754: Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, May 2, 1927—6 p. m.

202. Department's 182, April 23, 6 p. m. Radio Corporation of America has received communication from T. Y. Tsiang, Director General of Telegraphs, Peking, suggesting that new arrangements for short wave stations be entered into to supersede existing contracts regarding high power long wave stations. Radio Corporation has replied by letter referring to Department's memorandum of October 28, 1926, to the Japanese Embassy³⁸ and corresponding communication to Chinese Government,³⁹ and stating that in view of recommendations contained therein and until answer of Chinese and Japanese Governments shall have been received Radio Corporation would not feel at liberty to enter into negotiations different from those suggested in memorandum of October 28. Radio Corporation requested that following message be delivered to Director General Tsiang:

"Thank you for your kind letter delivered by Admiral Bullard. Your suggestions will receive careful attention. I am writing you today. Owen D. Young."

KELLOGG

893.74/756: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 6, 1927—3 p. m.

[Received 4:20 p. m.]

524. Your 182, April 23, 6 p. m., 202, May 2, 6 p. m.

1. Director General of Telegraphs has only today disclosed to me that as far back as December Minister of Communications ascertained from Japanese Legation that the Japanese Government disapproved of its radio interests participating in the tripartite conference which the Radio Corporation had suggested should be held in New York.

2. He further informed me that in view of the impossibility of the suggested New York conference he had first submitted to Mitsui Company and to the Japanese Legation the proposal which he subsequently presented to Radio Corporation in the letter delivered by Admiral Bullard. He said this proposal had been favorably received by the Japanese Legation but subject to the approval of the Japanese Government which has delayed its final answer on the ground of the present disturbed situation in China. He intimates that the Japanese are awaiting an indication of the attitude of the Radio Corporation.

³⁸ *Ibid.*³⁹ See telegram No. 251, Oct. 28, to the Chargé in China, *ibid.*, p. 1091.

3. Director General assumes that his proposal is the only one now open for consideration and thinks that if the Radio Corporation were to accept it at any rate in principle it would only be necessary to work out details at a conference in Peking. His view is that such conference should follow the International Radio-Telegraphic Conference to meet in Washington next October.

4. Copies of your telegram of May 2, 6 p. m. and of this reply mailed to Tokyo.

MACMURRAY

S93.74/761: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 18, 1927—6 p. m.

[Received July 18—1:23 p. m.]

744. My 524, May 6, 3 p. m.

1. Tsiang, Director General of Telegraphs, requests that the following be communicated to Mr. Owen D. Young, Radio Corporation of America:

"Thank you for your letter of the 26th April and that of Mr. Davis⁴⁰ of the 28th April. Our Government is of the opinion that no result can be obtained from the tripartite conference suggested by you unless some understanding can be made previously between our Government, your company and the Japanese interest. This is the cause of the delay in our replying to the note of October 1926 of the Secretary of State regarding the said conference. As the result of my unofficial discussion with the Japanese interest over my proposals recently submitted to you, I wish to add two more terms in the said proposals: (1) the Shanghai station shall be limited to the capacity of direct communication with the United States; (2) the Chinese Government will employ in Shanghai station an American and a Japanese as chief and assistant engineers respectively and in the Tungchow station a Japanese chief engineer and an American assistant engineer. If your company will agree to my proposals they may form bases of negotiations in the coming conference which I suggest to be held at Peking. Mr. Davis mentioned about the outlay made by the Federal Company of Delaware as result of the previous contracts; our Government may agree to compensate the company for any reasonable outlays incurred by it. A certain sum may be put separately or added to the cost of the station in the new contract. Our present political situation will not very much interfere with our plan. As my proposals are just and helpful to the Chinese industry no political party in China will interfere [with?] them. After the conference in Peking and signing of a new contract with your company, bonds will be immediately issued and land, which under the new plan will be much smaller, can be secured without much difficulty and delay. The pass for devices [*sic*] will also

⁴⁰ Manton Davis, general attorney, Radio Corporation of America.

be given at once. Please reply by cable and inform me of how much land required under the new plan."

2. Copy mailed to Tokyo.

MACMURRAY

893.74/763 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 29, 1927—4 p. m.

301. Your 744, July 18, 6 p. m. Following from Radio Corporation of America for Tsiang, Director General of Telegraphs:

"Your message of July 18, 1927, on the subject of the Federal wireless contract, has been transmitted to Mr. Owen D. Young and has been carefully considered. Mr. Young desires to point out that one of your two additional proposals, made as the result of your unofficial discussions with the Japanese interests, limits the use of the Shanghai station but does not do so with the Tungchow station. As an understanding between your Government, the Japanese interests and the American company is what was sought by the proposal of our Government for a conference in New York, as indicated in the American State Department's invitation of October 1926, Mr. Young sees no reason for attempting to reach the same end by an agreement before the conference. He much appreciates your friendly effort but begs to suggest that a reply from your Government and that of Japan to the invitation of our State Department, dated October 1926, should precede any further effort on his part to negotiate these matters with you."

KELLOGG

893.74/766a

The Secretary of State to the President of the Radio Corporation of America (Harbord)

WASHINGTON, October 3, 1927.

SIR: With reference to previous correspondence regarding the contract between the Federal Telegraph Company and the Chinese Government for the erection of radio stations in China, you are informed that the Japanese Ambassador called at the Department in regard to this matter on September 27 and was received by Mr. Nelson T. Johnson, Assistant Secretary of State.

The Ambassador said that he had called in reference to the radio question, since he understood that conditions were very favorable for a settlement. He said that it was his impression that a proposal from the Chinese authorities for the settlement of the subject at issue was before the Japanese and American Governments and he expressed a desire to know whether the American Government had accepted or rejected this proposal. The Ambassador intimated that the proposal

which the Chinese had made was in a general sense acceptable to his government. Mr. Johnson said that he understood that a proposal had been made directly to the Radio Corporation by the Chinese Ministry of Communications but that there was no proposal of the Chinese Government before the American Government; that, so far as the American Government was concerned the matter waited upon replies from the Chinese Ministry of Communications and Messrs. Mitsui and Company to the invitation sent by the Radio Corporation to come to New York for a conference of the three interested parties.

I am [etc.]

For the Secretary of State:

J. K. CALDWELL

Acting Chief, Division of Far Eastern Affairs

893.74/774

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] *October 20, 1927.*

In the course of conversation this morning the Secretary informed the Japanese Ambassador that Mr. Owen Young of the Radio Corporation had been to see him and was very anxious that the Japanese and the Chinese Governments approve of a suggestion which Mr. Owen Young had made directly to the Mitsui Company in Japan and to the Director of Chinese Telegraph Administration that representatives of those two interested parties now in Washington attending the Radio Conference, and entirely aside from the Conference itself and without any connection therewith, get together with a representative of the Radio Corporation of America for the purpose of discussing some workable plan whereby their interests could be permitted to go forward in China. The Secretary asked Mr. Johnson to take the Ambassador to his office and discuss the matter.

Mr. Johnson stated to the Ambassador that he understood that Mr. MacMurray had expressed to the Ambassador the wishes of Mr. Owen Young and the Ambassador stated that he had been shown the telegrams that Mr. Young had sent to Doctor Dan ⁴¹ and Mr. Tsiang. The Ambassador stated that he felt that the time was probably good for some settlement of this question. He said that Doctor Dan in discussing the matter with the Japanese Government had suggested that the Japanese Government and the American Government should get together on questions of principle before any discussion should take place and the Ambassador stated that it was his opinion that there was very little difference existing between the viewpoint of the Japanese Government and the viewpoint of the American Government; that the

⁴¹ Takuma Dan, director of the Mitsui Co.

Japanese Government felt that there must be no control of wireless in China by a foreign government, except, of course, the sort of supervision that could be given by Japanese or American auditors and Japanese or American radio engineers.

I stated to the Ambassador that I believed that there ought not to be any difficulty in the two governments getting together on a proposition as our only desire was to obtain unstraddled and direct communication between the United States and China and the absence of any monopolistic rights. The Japanese Ambassador stated that the Japanese Government was equally interested in direct communication between Japan and China and they also, as was well-known to this Government, were prepared to support the idea that there should be no monopoly of rights.

I stated to the Ambassador that it seemed to me that it ought to be possible for the governments to allow the private corporations who were going to be concerned with the operation of radio between China and Japan and the United States to get together as private individuals for the purpose of finding some plan of operation and of agreeing among themselves on how they could carry out their proposals; that the American Government itself was not interested in operating radio between the United States and China, that it was only interested in seeing radio communication established and in supporting the right of private American interests to establish such communication unhampered by monopoly.

I said that it seemed to me that when these private interests had agreed on a plan then it would be time for the Japanese, Chinese and American Governments to consider whether they would or would not approve of the plan agreed upon.

The Japanese Ambassador stated that he felt that it ought to be possible to do something about the matter. He said that he had telegraphed to his Government to ask whether they still would insist upon their proposal that the meeting take place in Peking. He said he felt that this was a minor question, that the chief proposition was whether or not they could settle the points at issue. He referred to a proposal which had been made by the Chinese to the Japanese and to ourselves and wondered whether this proposal could be used as a basis for discussion. I said to the Ambassador that it was my impression that the Radio Corporation was prepared to discuss any proposal and of course might have proposals of their own to offer but the great point was permitting them to begin the discussion.

The Ambassador said he hoped that something could be done and that as soon as he received a reply from his Government, he would communicate further with us.

N. T. JOHNSON

893.74/782 : Telegram

The Ambassador in Japan (MacVeagh) to the Secretary of State

Tokyo, November 29, 1927—4 p. m.

[Received November 29—11:20 a. m.]

130. The following from MacMurray:⁴²

1. Vice Minister Debuchi handed me the following confidential memorandum of what he described as his personal views as to the solution of the Federal Wireless question when I called upon him this morning in company with the Ambassador:

2. "Confidential. The following general outline is suggested as a basis of negotiation among the American and Japanese business interests and the Chinese Ministry of Communications:

(1) The Governments of Japan and of the United States shall have no objection to restoring to China the rights concerning wireless telegraphy in China which are held by their respective companies and to the cancellation of all the existing contracts.

(2) In Shanghai, China shall establish her own wireless station. The Federal Telegraph Company may supply material for, and undertake the construction of, the said station which shall be capable of communicating directly with stations in the United States.

(3) China shall conclude loan contracts with the Japanese and American companies in regard to their respective amounts of investment, on condition that the terms of those loans shall be equal to Japan and the United States and that special regard shall be had to the following points:

(a) China shall provide reliable securities for the proposed loans such securities to be common to both the Japanese and American loans.

(b) Until such time as the above-mentioned loans shall have been completely redeemed, China shall engage Japanese and American accountants respectively and engineers for each wireless station.

(4) China shall guarantee that in future she will not grant to any foreign country or its nationals any exclusive right of operation of wireless telegraphy in China either singly or jointly with China.

(5) Upon an agreement of the views being reached between Japan, the United States and China on the above-mentioned proposals, the Japanese and American companies concerned and the representative of the Chinese [Government] shall without delay hold a conference and make detailed arrangements on the basis of the principles above laid down, the place for that conference to be fixed by consultation among the three countries."

3. Upon my commenting that the matter concerned the American Government only as regards the two essential points discussed in my conversations with Matsudaira,⁴³ Debuchi said that the Japanese Government likewise desired to do away with any monopoly, but inquired what we meant by "the direct communications" upon which we

⁴² The Minister to China was at Tokyo, en route to his post at Peking from a visit to the United States.

⁴³ Japanese Ambassador at Washington.

insisted. He seemed much relieved when I explained that we meant simply freedom to communicate between stations in China and in the United States without the intervention of stations under control of a third party, and said that failure to understand this had heretofore caused the Japanese some apprehension lest we should intend the phrase to cover complete American control and operation of the Shanghai station. To cover this point he inserted the concluding clause of the third paragraph of the memorandum quoted above.

4. He asked if I would be prepared to support the proposal outlined by him. I said that I should be glad to submit it to you without delay but must frankly tell him that as I understood the matter you would regard the several suggestions made as being matters entirely for the decision of the American radio interests concerned. He said that he quite understood that, but only wished to be assured that you would have no objection to a settlement on that basis by the American radio interests. I told him that while I could not speak with authority I was personally of the opinion that you would have no objection if the companies should find that basis of arrangement acceptable.

5. He suggested that the meeting of interested parties to take place if this basis were agreed upon between the Japanese and American interests should be held at Peking or perhaps alternatively at Tokyo. I urged New York as being removed from the actuality and the appearance of political influence over its deliberations. He said that the place of meeting was minor matter which might be considered after an understanding in general terms had been reached as between the Japanese and Americans.

6. Repeated to Peking referring to its telegram of November 28, noon.

MACVEAGH

893.74/788

The British Embassy to the Department of State

AIDE MEMOIRE

His Britannic Majesty's Embassy desire to draw the attention of the State Department to the letter which His Majesty's Ambassador addressed to Mr. Butler Wright on August 27th, 1926,⁴⁴ setting forth the attitude of His Majesty's Government towards the wireless controversy in China, and explaining in what respects the agreement concluded on September 19th, 1921, between the Federal Company and the Chinese Government appeared open to objection on the score of tending towards the establishment of a radio monopoly in China.

⁴⁴ *Foreign Relations*, 1926, vol. I, p. 1068.

In this connection, it has now come to the notice of His Majesty's Government that, in a conversation which took place at New York in September last between Mr. Kellaway, Managing Director of the Marconi Company, and General Harbord, President of the Radio Corporation of America, the latter intimated that the Radio Corporation of America desired nothing more than equal treatment for all the principal wireless companies concerned, provided that the interests of the Federal Company were safeguarded as regards the maintenance of direct communication across the Pacific between China and the United States. A settlement on the basis of these principles would, in the opinion of the Marconi Company, go far to safeguard their prior rights to which attention was drawn in the note No. 566 which His Majesty's Ambassador wrote to the Secretary of State on May 28th, 1925,⁴⁵ and also pave the way for an agreement between the various national interests concerned on the basis of the principle of equality of opportunity, on which emphasis was laid in Mr. Chilton's note to the Secretary of State No. 704 of July 22nd, 1925.⁴⁶

In these circumstances, His Majesty's Embassy, on instructions from His Majesty's Principal Secretary of State for Foreign Affairs, beg leave to enquire whether the United States Government are now prepared to endorse the formation of a wireless consortium on the part of the powers concerned as suggested in the fifth paragraph of the memorandum communicated to the State Department by the Japanese Embassy at this capital on December 24th, 1924,⁴⁷ to which reference was made in His Majesty's Ambassador's above mentioned note of May 28th, 1925, and, furthermore, whether it is their view that the negotiations for the formation of such a consortium can now be pursued on the basis of the two principles formulated by General Harbord, viz. no monopoly for any one of the wireless interests concerned, and guarantees for the maintenance of direct wireless communication between China and the United States.

WASHINGTON, *December 3, 1927.*

893.74/795

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] *December 19, 1927.*

The Japanese Ambassador called on me this morning and referred to the conversation which Mr. MacMurray had with Mr. Debuchi, Vice Minister of Foreign Affairs, concerning the Federal Wireless question⁴⁸ and asked me whether we had considered the suggestions

⁴⁵ *Foreign Relations*, 1925, vol. I, p. 905.

⁴⁶ *Ibid.*, p. 910.

⁴⁷ *Ibid.*, p. 890.

⁴⁸ See telegram No. 130, Nov. 29, from the Ambassador in Japan, p. 478.

made in that conversation. I was led to infer from his statement that he had believed that Mr. MacMurray had assented to the point of view of Mr. Debuchi. I told the Ambassador that I did not understand that Mr. MacMurray had assented to anything in this connection. It was my understanding that when Mr. MacMurray arrived in Tokyo Mr. Debuchi asked to see him and handed to him the memorandum which Mr. MacMurray had transmitted to us for our information; that we had not had time to go into the matter definitely as we had believed that both Mr. Debuchi and the Ambassador understood that in so far as the Government was concerned we were only interested in the principles involved, namely, that there should be no monopoly of communication and that there would be installed communication between us and China and that as long as these principles were observed, we proposed to leave the rest of the details to the business interests involved. I said that the memorandum would be referred to the Radio Corporation for its comment.

The Ambassador said that he understood from his government that the British Government had written to us asking the United States for a reconsideration of its attitude toward the Marconi interests in radio communication in China and for a statement as to our attitude toward the Japanese proposals of December, 1924, for a wireless consortium. I told the Ambassador that the British Embassy here in Washington had indeed written to us about this matter but that they had not mentioned the Marconi interests other than to mention them in connection with an inquiry as to what our attitude was toward the Japanese proposals of December, 1924. I told the Ambassador that it was my intention to refer this communication to the Radio Corporation and that doubtless we would reply to the Ambassador along the lines of our reply to the Japanese Government of October, 1926, in which reply we had set forth our attitude toward the proposals for a radio consortium.

The Ambassador stated that he recalled that we were opposed to the consortium. I got the correspondence out and read over to the Ambassador our communication to him pointing out that we had said to him that we were doubtful whether such a proposal would be acceptable to the Chinese, and that, after all, any proposal regarding cooperation in the matter of radio communication in China was worthless unless it had the assent and good will of the Chinese Government. I pointed out that we had asked the Japanese Government at that time to inform us whether the Chinese Government had indicated to it the approval of this proposal and said that we had no reply on that matter. The Ambassador said that the Chinese Government had made no reply to that and that his Government was of the same mind as ours on the subject now although they had considered that the consortium would

be a valuable method. He admitted that the consortium plan would get us nowhere if the Chinese did not accept it.

N[ELSON] T. J[OHNSON]

CONSIDERATION OF INFORMAL PROPOSAL FOR LOAN BY AMERICAN BANKERS TO THE SOUTH MANCHURIA RAILWAY

894.51 So 8/1 : Telegram

The Chargé in China (Mayer) to the Secretary of State

[Paraphrase]

PEKING, November 19, 1927—noon.

[Received November 19—9:40 a. m.]

1008. 1. Yesterday General Dzau of Chang Tso-lin's⁴⁹ headquarters called. His visit was principally to learn whether I knew the object of the recent trip to Japan by Thomas W. Lamont.⁵⁰ General Dzau stated that there were current reports that the purpose of the visit was to negotiate a loan to Japanese interests for use in developing Manchuria. He told me that American capital seeking proper investment in Manchuria would be more than welcome by Chang Tso-lin and that Chang would afford it every possible facility. There was no general discussion of the matter between General Dzau and myself. I did not comment on the possible advantage which would accrue to the Chinese from the use by the Japanese in Manchuria of American funds, indirect or otherwise, with creditor control which might be exercised by us, the only kind of effective pressure which might likely be used by the United States should Japanese activities in Manchuria take a turn which we would consider unfavorable to our own as well as to Chinese interests.

2. The commander in chief of the Asiatic Fleet⁵¹ has just telegraphed me that among local Kuomintang leaders, presumably in Shanghai, there is a feeling that American bankers, as a result of Lamont's recent trip to Japan, will extend a loan to certain Japanese banks and that these banks in turn will advance funds to the South Manchuria Railway. The feeling is that such loans would enable Japan to increase her activities and strengthen her grip in Manchuria and that the United States would thus unconsciously help Japan to extend her influence in the internal affairs of China and would give evidence of a change from the past friendly American attitude toward China.

⁴⁹ Chang Tso-lin controlled Manchuria and was generalissimo of the military and naval forces of the Chinese Government at Peking.

⁵⁰ Member of the firm of J. P. Morgan & Co.

⁵¹ Admiral Mark L. Bristol, U. S. Navy.

3. Please give me as complete information as possible regarding the visit of Mr. Lamont to Japan. Instructions are also desired as to what reply, if any, the Department wishes me to make to the inquiry of General Dzau.

4. This telegram repeated to Embassy in Tokyo.

MAYER

894.51 So 8/1a : Telegram

The Secretary of State to the Ambassador in Japan (MacVeagh)

[Paraphrase]

WASHINGTON, November 19, 1927—4 p. m.

84. Department has received an informal inquiry from Mr. Thomas W. Lamont as to whether any objection would be made to loan by American bankers of \$30,000,000 to the South Manchuria Railway, the loan to be guaranteed by the Japanese Government. To pass such a loan would apparently involve reversing previous decisions made here in the same matter,⁵² and we seriously doubt whether it is advisable to do so. The political inference which might be drawn from our action is the principal difficulty. The Chinese would very likely conclude, should we permit the loan to go through, that the American Government has lined up behind Japan in her penetration of South Manchuria and exploitation of that country. An intimation to this effect has already been received from Peking. The Department is anxious to receive your personal and confidential opinion as to what reaction may be expected from the Japanese Government should the loan be refused. You will, of course, not communicate regarding this matter to the Japanese Government or anyone else. The Department wishes as complete a statement as possible of your views not later than Monday, November 21. From our records it appears that the Japanese Government has been fully acquainted with our previous attitude. It will be useful to the Department to receive any information in your possession with respect to Mr. Lamont's conversations regarding this matter while he was in Tokyo.

KELLOGG

894.51 So 8/1 : Telegram

The Secretary of State to the Chargé in China (Mayer)

[Paraphrase]

WASHINGTON, November 21, 1927—noon.

385. Your telegrams Nos. 1008 of November 19, noon, and 1010 of November 19, 2 p. m.⁵³ Before Lamont went to Japan his trip was

⁵² See *Foreign Relations*, 1923, vol. II, pp. 507-509.

⁵³ Latter not printed.

represented to us as one of no particular significance. It was understood that no loans or financing were contemplated. When Lamont returned he reported, and it was also reported in the press, that the Japanese Government had approached him on the subject of making a \$30,000,000 loan to the South Manchuria Railway, which loan would be guaranteed by the Japanese Government. Lamont has informally inquired of the Department as to whether our Government would have any objection to such a loan.

The Department is anxious to know your opinion as to the possible reaction in China should the Japanese Government make such a loan in this country for the South Manchuria Railway and any additional information you can give respecting discrimination against American commerce and Japanese opposition to railway construction in Manchuria by China. Please telegraph full reply as soon as possible.

KELLOGG

894.51 So 8/2 : Telegram

The Ambassador in Japan (MacVeagh) to the Secretary of State

[Paraphrase]

TOKYO, November 21, 1927—5 p. m.

[Received November 21—9:50 a. m.⁵⁴]

128. Your telegram 84, November 19, 4 p. m. I believe that refusal of the Department to pass loan would be viewed by Japanese Government as evidence of distrust of the intentions of Japan in Manchuria and as an indication of lack of faith by the American Government in the repeated assurances given by Japan that she intends to abide by her promises given to respect the territorial integrity of China. The Japanese Government is certain that her policy in Manchuria can be properly described as one of penetration-exploitation. The attitude of Japan is that the increase of her interests in Manchuria, while benefiting Japanese industry, distinctly benefits the Chinese. The Japanese Government since 1922 has taken every occasion to repudiate any idea of action in Manchuria, whether industrial or otherwise, in opposition to or in derogation of Chinese sovereignty. I assume, naturally, that Mr. Lamont in asking for the Department's approval of the loan explained the objects for which the advances would be used. (Press reports have indicated that the money would be used for loans to the Chinese for needed railway construction in Manchuria. See our despatch No. 667 [668?] of November 8.⁵⁵) If these are legitimate purposes I feel sure that rejection by our Government of their appeal

⁵⁴ Telegram in three sections.

⁵⁵ Not printed.

for assistance in working out the undoubtedly difficult problems confronting them in Manchuria would be a great disappointment to the Japanese.

The Japanese are extremely anxious to obtain the financial assistance needed from the United States rather than from other sources, and they believe that if American people are financially interested in Manchuria it will help Japan in developing the country along lines of making it a place safe and desirable for nationals of all countries, including China. (See our despatch No. 661 [651] of October 11.)^{55a} In my opinion if this assistance is refused, it is not unlikely that the result will be close cooperation between Japan and the Soviet Union. The Russians are sending a new ambassador here who is not a career man but who represents mainly the economic side of the Soviet Government.

It has been my feeling for a long time that we should make use of the first opportunity offered to convince the Japanese that we have an honest desire to help them in reaching a solution of their difficulties when we can legitimately do so. A refusal by our Government to approve the investment of American capital in a Japanese enterprise operating legally in Manchuria for no other reasons apparently than that it has not been our past policy and that the Chinese might look upon the action as indicating that the American Government has placed itself behind Japan, would surely not be viewed by the Japanese as a step in this direction. (Unfortunately the only record of the attitude on this problem which I can find in the Embassy's files is the case of the proposed loan to the Oriental Development Company. See Department's telegram No. 153 of December 19, 1922, noon.⁵⁶ This case does not seem analogous to the present one.) I greatly fear that if J. P. Morgan & Company is willing to make the advance in this case and is deterred solely by the Department's attitude, the Japanese will ascribe it to a deep-rooted feeling of distrust and suspicion of Japan, especially with respect to its attitude toward China, on the part of [the American Government?].

I need not point out that conditions are not what they were a few years ago. The Washington Conference treaties marked the beginning of a new era, or were intended to do so. I therefore believe that the Japanese would expect us to make our decision in this case without regard to our past attitude: to act in the light of the new facts as we find them. The guaranteeing of the good will of China for us is an extremely important consideration, but doubtless the Japanese feel

^{55a} Not printed.

⁵⁶ Not printed; for correspondence regarding the proposed loan to the Oriental Development Co., see *Foreign Relations*, 1923, vol. II, pp. 503 ff.

that all the various factions which make up China today are inclined to view with distrust all Japanese undertakings in Manchuria and to look upon any aid to Japanese enterprise there as support of what the Chinese consider, without warrant, the political ambitions of Japan in Manchuria. It is also the feeling of the Japanese that if this attitude of the Chinese is allowed to be the only test by which American loans are to be judged, the result will be to debar indiscriminately all American capital from being invested in any Japanese enterprises in Manchuria. I add one very important consideration, i. e., that in refusing to pass the loan it would be hard to convince the Japanese that our action was taken only because of fear that its approval would be misunderstood by the Chinese and not because we believed that the fear of the Chinese regarding Japanese intentions were [well founded?].

The conversations which Mr. Lamont had in Tokyo were almost all with men who represent important financial interests. The Japanese had two purposes in their conversations with Mr. Lamont, first, to convince him that Japan's financial condition was fundamentally sound, and, second, to secure his opinion with respect to methods for improvement by which Japanese securities would be made more attractive to Western bankers. At first Mr. Lamont was purely receptive and opposed to including special matters in the discussions, but near the end of his visit, at a conference in which all important financial interests were represented, Lamont and Jeremiah Smith gave a clear-cut and sweeping criticism of Japanese industrial and financial methods and offered suggestions as to means of improving them. At that time they gave a sympathetic hearing to the suggestion that a loan be made to the South Manchuria Railway. I believe that Lamont was impressed with the sincere desire on the part of the Japanese bankers to place their business on a sound basis and as far as possible to adopt the suggestions which Lamont and Smith had made. I think Lamont left with the feeling that Japan's financial condition was fundamentally sound. Lamont talked also with businessmen about Japan's policy in China. I feel he was convinced that the Japanese were sincerely and earnestly seeking a way by which Japan could aid China in solving her own problems without an undue sacrifice of Japanese interests. I am convinced that the visit of Lamont and those associated with him had a helpful and encouraging effect on the situation in Japan, although it was only indirect as I have not heard that Lamont even talked of any specific loan with the exception of that to the South Manchuria Railway.

894.51 So 8/8: Telegram

The Chargé in China (Mayer) to the Secretary of State

[Paraphrase]

PEKING, November 25, 1927—1 p. m.

[Received 2:10 p. m.]

1029. My telegram 1028 of November 25, noon.⁵⁷

1. I regret the delay in answering your telegram 385 of November 21, noon, which was due to the desirability of reviewing the subject in light of the facts presented in your telegram 385, namely, that the proposed loan would be made directly to the South Manchuria Railway and that the Japanese Government would guarantee it. This offers a more serious problem with respect to Chinese reaction with probably sharper and more extended repercussion than expected in the circumstances of my telegram No. 1019 of November 22, 9 a. m.,⁵⁷ which was written with the assumption that the loan would be to private Japanese interests like the Oriental Development Company. I think the Department should assume, for purposes of the present discussion, that the South Manchuria Railway is in the popular conception here an official Japanese instrument for exploiting Manchuria and that the feeling of the Chinese would be that the American Government was favoring a direct loan to the Japanese Government for the purpose of developing Manchuria in a way calculated to be subversive of the sovereignty and territorial integrity of China unless there is some contravening clause of which I do not know. The closer American capital is associated with Japanese exploitation of Manchuria the more likely is the reaction here to be serious and comprehensive.

2. A number of uncertain factors make it difficult if not impossible to foretell what may be the reaction. Such factors are, for example, the happenings in China when the publicity breaks which might distract attention from the actual provisions of the loan arrangement; the specific uses, if there are any, to which the advances are to be put; whether the Japanese would be fair or try to place on us the odium attaching to their position in Manchuria, etc.

3. There are immediate and ultimate types of reaction to consider. I think that the Department should assume that the immediate reaction all over China would be unfavorable. The Chinese would probably regard the loan as indirect intervention by the American Government, and propaganda would be provided against Americans as imperialists. It is possible, though not probable, that some form of boycott of American goods would result. Conceivably there might be in both the South and North a press campaign and student demonstrations. There is no doubt that Chang Tso-lin would be furious.

⁵⁷ Not printed.

General Dzau has again called on me to say that Chang is much exercised over the question and considers that assistance to Japan in her efforts to dominate Manchuria would be an unfriendly act against a weak and struggling people and that should the loan go through, Chang will have nothing more to do with us. . . .

4. The above represents to my mind the most serious results likely. I think that not all I have suggested will ever occur and there is no certainty of any of it.

5. To a great degree the ultimate reaction and the immediate reaction also in a large measure, I believe, would depend on the attitude of the American Government regarding the loan, the resolution with which a decision in its favor might be made and the determination to go through with it; for upon these factors would depend Chinese opinion as to whether or not we are in earnest or can be bullied, frightened, or swamped sentimentally. The Chinese have an uncanny way of divining whether one is in earnest and would at once be aware if we are so, with correspondingly beneficial results.

6. The loan would probably bring considerable disillusionment throughout China regarding the United States. . . .

7. It seems necessary in the actual circumstances of the loan proposal to consider on the one hand the advantages of creditor control and the desire not to give offense to the Japanese by disapproving such a loan, and on the other hand the disadvantages to the United States resulting from the unfavorable reaction among the Chinese. I rather feel that in the circumstances the balance of advantage is against approving the loan unless approval of it means a more positive policy by our Government in relation to China to be demonstrated by evident determination to no longer allow our rights in China to be disregarded. It would be better to give the first indication of this policy in a matter directly concerning American interests, but the loan question has been put up to us and we must face it.

8. . . .

9. The matter under discussion is so important that I suggest the advisability of giving Minister MacMurray an opportunity to present his views before the Department comes to a decision. He should reach Tokyo in 2 days and I shall repeat to him the present telegram and your 385 of November 21, noon, if the Department approves.

10. The Legation does not have any more information regarding discrimination in Manchuria against American commerce. Consul at Mukden has been instructed by me to telegraph to the Department any evidence in his possession regarding such discrimination.

MAYER

894.51 So 8/16 : Telegram

The Chargé in China (Mayer) to the Secretary of State

[Paraphrase]

PEKING, December 3, 1927—3 p. m.

[Received December 3—10:55 a. m.]

1066. 1. I repeat for your information following telegram from commander in chief, Asiatic Fleet, dated December 2:

"From other sources as well as from press reports I have learned that in Kuomintang circles there is much concern, similar to that felt in North China, with regard to the proposed loan to Japan. Without attaching particular importance to such feeling, I believe that if American bankers make a loan to Japan for the South Manchuria Railway it will result in a lessening of Chinese good will toward the United States, additional ammunition will be given to propagandists for use against so-called foreign imperialism, and it will be more difficult to protect American interests both by diplomacy and by use of the naval forces. Any added Japanese good will would be offset by the new situation created in the Far East.

If you agree with the foregoing, I suggest that we inform our respective Departments."

2. I am replying to the commander in chief in a telegram dated December 3, 4 p. m., to the effect that a paraphrase of his telegram of December 2 is being repeated to the Department of State for its information and that I have already fully stated my views on the subject to the Secretary of State.

MAYER

894.51 So 8/18a : Telegram

The Secretary of State to the Chargé in China (Mayer)

[Paraphrase]

WASHINGTON, December 3, 1927—4 p. m.

397. The question of a loan to the South Manchuria Railway has not developed beyond the point described in our telegram 385, November 21, noon. Bankers have not as yet presented to the Department any definite proposal upon which a decision could be reached and no press statement has been made on the subject.

There was considerable publicity here due to statements in Tokyo by the president of the South Manchuria Railway, republished here, and to a call at the Department by Mr. Lamont. As a result, at the press conference of November 25 the correspondents inquired whether it was likely that negotiations for a loan to the South Manchuria Railway would influence in any way American attitude toward China. The correspondents were informed that the Department regarded a loan by private bankers to the South Manchuria Railway as a private matter and not one in which the Government

was particularly interested. One correspondent raised the question whether if such a loan were made by American bankers it would presage recommendation [*recognition?*] of Chang Tso-lin by the American Government. The correspondent was told that it would not. The Secretary in reply to an inquiry said that the correspondents could print that in substance his attitude toward the proposed loan would be that it is not a question in which this Government has any particular interest and that it was a private matter. The subject was again brought up on November 30 when a correspondent inquired whether a project for a loan to the South Manchuria Railway had been formally presented to the Department. He was told that no such project had been formally presented. The same correspondent called attention to press reports that Chang Tso-lin was concerned about the proposed loan. The correspondent inquired whether the Department's attitude that the loan was purely a private matter might be influenced if the reports of Chang's views were correct. No comment was made in reply to this question.

The Department wishes you to refrain from commenting on the matter other than to say that you understand that no definite proposal has as yet been presented to the Department. Should such a proposal be made the Department will not fail to inform you of it and of the Department's decision in the matter.

Please continue to telegraph information with respect to the Chinese reaction on this subject.

KELLOGG

894.51 So 8/18: Telegram

Mr. Frank W. Lee, Representative of the Chinese Nationalist Government, to the Secretary of State

NEW YORK, December 5, 1927.

[Received 12:33 p. m.]

I have received the following cable for transmission:

"Chinese people have heard with alarm the imminent flotation of South Manchuria Railway loan in America and apparent acquiescence of the American Government. It is well known to the world and to none better than the American Government that that railway is not a mere industrial enterprise but the symbol and instrument of alien domination over a large and rich portion of Chinese territory. Japan sought to prolong that domination by nature of the notorious Twenty-One Demands.⁵⁸ If America, which repeatedly demonstrated its sympathy with China in connection with those demands, were now to lend means to strengthen that domination, Chinese people would be at a loss to understand the fundamental change of attitude on the part of the American Government. The Nationalist Government feels confident the American Government will not permit consumma-

⁵⁸ See *Foreign Relations*, 1915, pp. 79 ff.

tion of this loan and depart from its traditional policy which has been instrumental in promoting cordial friendship between Chinese and American people. Chao Chu-wu, Minister of Foreign Affairs, Nanking, December 1st."

FRANK W. LEE

894.51 So 8/20 : Telegram

The Ambassador in Japan (MacVeagh) to the Secretary of State

TOKYO, December 9, 1927—5 p. m.

[Received December 9—9:12 a. m.]

132. [Paraphrase.] My telegram 128 of November 21. It is reported here that J. P. Morgan & Company has refused to make loan to South Manchuria Railway and there is a prevalent impression that the responsibility lies with the Department of State. Yesterday Dr. Dan⁵⁹ called on me on behalf of Mr. Yamamoto, president of the South Manchuria Railway. Dr. Dan said that they all felt that the reason for the refusal by J. P. Morgan & Company was the unwillingness of the Department to pass the loan in the face of Chinese protests. He said they were much disturbed by this attitude on the part of the United States, in part because of the effect it might have on Japan's internal situation. I gathered that he meant the arousing of resentment against China because of interference by Chinese leaders. I told Dr. Dan that the only press reports which I had noticed were, first, that the Department had stated that it did not object to the loan and later that the Department had reached no decision as no formal request had been received from J. P. Morgan & Company. I said my inference was that the bankers had refused the loan on other grounds. In view of the uncertainty and conflicting rumors, I think it would be helpful if the Department would send for my own information a summary of what has occurred and also some statement that I could give to the press here if I should deem it advisable. [End paraphrase.]

The *Japan Chronicle*, a British-owned and -edited newspaper, ordinarily hostile to Japan's Manchurian policy, in an editorial yesterday on the Morgan loan stated:

"It is difficult to see how the Department of State can now avoid the charge of taking sides; if it agrees to the loan, there will be a great outcry in China that the United States is in partnership with Japan in the exploitation of Manchuria; if it disapproves of the loan, there will be a feeling in Japan, though probably not so much outcry (for favors to come have to be considered) that the United States is taking the part of the Chinese agitators against Japan. Indeed, for the Department of State to stop a loan to the South Manchuria Railway, in the circumstances that have arisen, is to censure the whole of Japan's Manchurian policy."

MACVEAGH

⁵⁹ Dr. Takuma Dan, president of the Mitsui Co.

894.51 So 8/20 : Telegram

The Secretary of State to the Ambassador in Japan (MacVeagh)

[Paraphrase]

WASHINGTON, December 10, 1927—1 p. m.

87. Your telegram 182, December 9, 5 p. m.

[Here follows a paragraph which is the same in substance as the first two paragraphs of telegram 397, December 3, 4 p. m., to the Chargé in China, printed *ante*, page 489.]

The following is for your confidential information. The wide publicity which the loan has received in the United States has been generally unfavorable. Informally, it has been intimated to the Department that it is the feeling of the bankers that this publicity has adversely affected the market in this country for such a loan and that the bankers have decided in view of this, and of the doubtful wisdom of underwriting a loan so evidently mixed up with Far Eastern politics, to postpone any consideration of the loan. The Department has received an intimation that the Japanese have been informed by the bankers of the situation indicated above. We should in no way discuss or give out information concerning any decision the bankers have reached or may reach. Such information should come from them.

The Department feels you should refrain from commenting on this matter except to say that you understand that as yet the Department has received no definite proposal.

KELLOGG

ARRANGEMENT FOR PAYMENT BY AMERICAN CITIZENS AND FIRMS
OF VOLUNTARY CONTRIBUTIONS IN LIEU OF TAXES TO THE
HARBIN MUNICIPALITY⁶⁰

893.102H/475

The Chargé in China (Mayer) to the Secretary of State

No. 773

PEKING, October 7, 1926.

[Received November 12.]

SIR: I have the honor to refer to despatches No. 1306 of July 17, 1926, and No. 1310 of July 21, 1926, from the Consulate at Harbin to the Legation,⁶¹ copies of which appear to have been forwarded to the Department, on the subject of the Harbin Municipal Government and to state that the Legation accords, in general, with the views expressed by Mr. Hanson with respect to the new Municipal Regulations which have been promulgated by the Chinese authorities in that city.

⁶⁰ For previous correspondence regarding the relations of American residents and the Harbin Municipality, see *Foreign Relations*, 1920, vol. I, pp. 787 ff.

⁶¹ Neither printed.

From an examination of these Regulations it would appear that if they were accepted by the extraterritorial Powers there would not accrue to the foreign nationals concerned any rights of substantial participation in the affairs of the Harbin Municipality, largely by reason of the fact that all actual power is concentrated in the hands of the Supervising authorities, who are Chinese, e. g. Articles 21 j, 33, 35, 56 and 60 of the Regulations. An acceptance of the Regulations would, in all probability, result in a considerable impairment of the treaty rights of American citizens without their obtaining any compensatory advantages.

The attention of the Department is also respectfully invited to the very general language used in Article 3 which specifies that

["] . . . the privileges and obligations of the residents of the special city of Harbin . . . shall be governed by a Municipal Constitution to be adopted . . . "

An acceptance of these Regulations would, therefore, also possibly involve some commitment with respect to a constitution, the provisions of which have not yet been drafted and which is to be promulgated "with the approval of the Supervising Authorities concerned". This might eventually create serious misunderstandings with regard to the treaty rights of American citizens.

The Legation appreciates that, with the growth of Chinese municipal governments, it will be both equitable, and increasingly necessary from a practical standpoint, to give careful consideration to the question whether we should not be liberally disposed to recognize the power of the Chinese to levy municipal taxes upon American citizens when adequate municipal rights are guaranteed them and appropriate municipal service is provided. At the same time the Legation believes that it would be inadvisable, and that it would form an undesirable precedent, if regulations such as those promulgated at Harbin not providing for a bona fide representative municipality were to be made binding upon American citizens.

In view of the foregoing considerations, it is suggested that Mr. Hanson be authorized to inform the Chinese authorities that the Regulations in their present form are unacceptable to the American Government, advising them, in so far as he may deem appropriate, of the particulars in which they are unsatisfactory. In the meantime it would seem to be practicable to adopt as a *modus vivendi* either of the courses indicated by Mr. Hanson, namely: "an understanding . . . whereby taxes provided for in the budget should first receive the consent of the extraterritorial consuls before they could be assessed on their respective nationals", or an arrangement whereby "municipal taxes in the form of voluntary contributions can be paid, either directly or through the consulate, to the authorities with the

understanding that unreasonable taxes or unreasonable amounts will not be paid". With respect to the first course, it is to be noted, however, that there would not seem to be any authority for the Consul to make such assessments as he might approve of binding in a legal sense upon American citizens.

It has been recently ascertained that both the British and Japanese Legations are maintaining the attitude that the new regulations should not be accepted as legally binding upon their nationals and prefer that, pending a definite solution of the question, reasonable taxes should be paid in the form of voluntary contributions.

It is requested that the Legation be informed briefly by telegraph of the Department's views in order that Mr. Hanson may be able to take appropriate action before the date when the Regulations are to be made effective.

I have [etc.]

FERDINAND MAYER

893.102H/479 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 28, 1927—4 p. m.

[Received January 28—9:45 a. m.]

92. With reference to the Legation's despatch No. 773 of 1926 concerning Harbin Municipality, I ask authority to approve a recommendation now made to me by Hanson that "American firms and citizens be requested to pay through the consulate to the municipality or Commissioner for Foreign Affairs voluntarily contributions at the same rates as those of taxes levied on nationals whose Governments adhered to the 1914 municipal agreement⁶² and collected at the time the old municipality created by this agreement was in power."

MACMURRAY

893.102H/479 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, February 4, 1927—5 p. m.

48. Your No. 92, January 28, 4 p. m. Authority granted.

GREW

⁶² For text of agreement between the British and Russian Governments respecting municipal administration and taxation within the area of the Chinese Eastern Railway, signed at Harbin, Apr. 17/30, 1914, see *British and Foreign State Papers*, 1914 (pt. II), vol. CVIII, p. 380.

893.102H/483

*The Consul at Harbin (Hanson) to the Minister in China
(MacMurray)* ⁶³

No. 1448

HARBIN, March 1, 1927.

SIR: I have the honor to refer to the Legation's telegram dated February 5, 1927, stating that the Department had telegraphed the Legation authorizing action indicated in the last sentence of my despatch No. 1423 dated January 14th concerning the Harbin municipal question.

On February 14th I invited the American and Russian representatives of American firms located at Harbin to the Consulate and explained to them my idea of making voluntary contributions to the Harbin municipality. All present agreed that contributions equal to taxes paid by nationals enjoying extraterritorial rights, such as the British, should be made by American firms to help in the upkeep of the municipality. With the exception of the National City Bank of New York and the Standard Oil Company of New York, the firms desired to pay these contributions to the municipality through the Consulate in order to avoid any representatives of the municipality continually calling at their respective offices and interfering with their business.

Both the bank and the Standard Oil Company acquired land at Harbin under an agreement made with the Land Department of the Chinese Eastern Railway to pay taxes similar to those paid by the nationals whose governments had adhered to the Anglo-Russian Municipal Agreement of 1914. These American concerns have been paying taxes directly to the municipality and desired to continue so to do.

On February 25th I called upon the Commissioner for Foreign Affairs, Mr. Tsai Yun-sheng, and informed him that the American firms at Harbin had offered to make voluntary contributions equal in amount to the taxes paid by extraterritorial firms at Harbin. Mr. Tsai appeared to be favorably impressed with the offer, and promised to present me with a schedule of the municipal taxes now in force.

The Consulate is now engaged in working out with the various local American firms the amounts of the contributions that each firm should give.

All nationals, with the exception of the American, Italian and Japanese are paying municipal taxes at the present time. Mr. Amau, the Japanese Consul General, expressed his belief that the payment of contributions through a Consulate in lieu of paying taxes was a

⁶³ Copy transmitted to the Department by the consul in despatch No. 4074, Mar. 1, 1927; received Apr. 2.

good idea, and that he might suggest to the Japanese that they adopt the same plan.

I have [etc.]

G. C. HANSON

893.102H/479

The Secretary of State to the Minister in China (MacMurray)

No. 470

WASHINGTON, March 29, 1927.

SIR: The Department refers to the Legation's telegram No. 92 of January 28, 4 P. M., and the Department's telegraphic reply No. 48 of February 4, 5 P. M., in regard to the payment of municipal taxes by American citizens residing at Harbin.

On a review of the whole subject, it appears that, in spite of the joint representations of the consular authorities at Harbin, the former municipal administration was abolished in the spring of 1926, and was followed first by a temporary municipal committee and, subsequently, on November 1, by a new municipal government providing for an assembly of delegates and a municipal council, based upon regulations issued by the Chinese authorities on July 6, 1926. In the Legation's despatch No. 773 of October 7, 1926, the Department was informed that the British and the Japanese Legations are maintaining the attitude that the new regulations should not be accepted as legally binding upon their nationals and prefer that, pending a definite solution of the question, reasonable taxes should be paid in the form of voluntary contributions.

The Department approves the suggestion made in the Legation's despatch of October 7, 1926, that Mr. Hanson be authorized to inform the Chinese authorities that the regulations in their present form are unacceptable to the American Government and that, in the meantime, an arrangement be made whereby "municipal taxes in the form of voluntary contributions can be paid, either directly or through the Consulate, to the authorities with the understanding that unreasonable taxes or unreasonable amounts will not be paid". The Legation's telegram of January 28 appears to indicate the rate of taxation considered by Mr. Hanson to be reasonable.

The Department does not understand, however, precisely what degree or nature of foreign participation in the municipal administration at Harbin the Consuls there of the interested Powers desire to have granted to their nationals. This subject should be included in the comment asked for in paragraph 4 of the Department's telegraphic instruction No. 61 of February 5 [15], 4 P. M.⁶⁴

I am [etc.]

For the Secretary of State:

LELAND HARRISON

⁶⁴ *Ante*, p. 382.

S93.102 H/490

The Chargé in China (Mayer) to the Secretary of State

No. 1175

PEKING, August 31, 1927.

[Received October 15.]

SIR: I have the honor to refer to the despatch of the American Consul at Harbin, No. 1548, of August 18, 1927, addressed to the Legation, entitled, "The Payment of Municipal Taxes at Harbin," copy of which is stated to have been sent to the Department, and to enclose a copy of the Legation's reply, dated August 27, 1927.⁶⁵ It will be observed from this correspondence that Mr. Hanson is of the opinion that the present procedure by which Americans and American firms at Harbin make their voluntary contributions in lieu of business, apartment, and automobile taxes to the local municipality through the Consulate irritates the local Chinese authorities, and recommends that Americans in making contributions for the year 1927 make them direct to the municipality. Mr. Hanson adds that this would be done only after the rates have been pronounced by the Legation to be reasonable and with the understanding that agents of the municipality should not be permitted to invade the premises and inspect the books of Americans and American firms.

Mr. Hanson has been informed that this Mission is of the opinion that the present procedure by which American nationals make their payments in lieu of municipal taxes through the Consulate should be continued for the time being. I have further stated that, if and when the local Chinese authorities take up this matter with the American Consulate at Harbin, whether formally or informally, with the request that contributions be made directly to the municipality, the Legation will give the question further consideration.

It is believed that, as a matter of expediency, it is preferable that contributions be made through the Consulate at Harbin, as in the past. This procedure tends to encourage the making of proper returns by American citizens and to avoid disputes which might arise as a result of direct dealings between American nationals and Chinese officials, in connection with the payment of contributions. The Legation's opinion is, of course, based purely on practical considerations, and if it is shown that the present arrangement causes undue friction, I shall not hesitate to recommend to Mr. Hanson that he advise American nationals to make payments direct under the conditions mentioned above, unless otherwise instructed by the Department.

I have [etc.]

FERDINAND MAYER

⁶⁵ Neither despatch nor reply printed.

893.102H/490

The Secretary of State to the Chargé in China (Mayer)

No. 675

WASHINGTON, November 7, 1927.

SIR: The Department has received the Legation's despatch No. 1175 of August 31, 1927, regarding the payment of municipal taxes at Harbin by American citizens and firms. The Department approves the Legation's instruction to Mr. Hanson of August 27, 1927, stating that the present procedure by which Americans make these payments as voluntary contributions through the Consulate should be continued for the time being.

I am [etc.]

For the Secretary of State:

NELSON TRUSLER JOHNSON

COLOMBIA

BOUNDARY DISPUTE WITH NICARAGUA

(See volume I, pages 322 ff.)

BOUNDARY DISPUTE WITH PERU

(See volume I, pages 331 ff.)

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COSTA RICA

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND COSTA RICA

711.182/2 : Telegram

The Secretary of State to the Chargé in Costa Rica (Gallman)

[Paraphrase]

WASHINGTON, *July 12, 1926—3 p. m.*

13. Department's 20, September 20, 1923, 6 p. m. and Legation's 46, September 27, 1923, 9 a. m.¹

The United States would be pleased now to enter upon negotiations with Costa Rica for a treaty of friendship, commerce and consular rights similar to the treaty signed on December 8, 1923 by the United States and Germany² (treaty series No. 725), and the treaty signed February 22, 1926, between the United States and Salvador.³

In September, 1923, the Government of Costa Rica was favorable toward entering into such negotiations. Ascertain and telegraph Department whether they are now favorable.⁴

In regard to commercial provisions the principle embodied in the draft treaty to be submitted by the United States would be unconditional most-favored-nation treatment. Should Costa Rica find it agreeable to enter into negotiations, the Department will send you a draft of the treaty with instructions.

KELLOGG

711.182/6

The Minister in Costa Rica (Davis) to the Secretary of State

No. 790

SAN JOSÉ, *August 18, 1926.*

[Received September 1.]

SIR: With reference to the Department's instruction No. 13, dated July 12, 3 P. M., relative to the negotiations of a Treaty of Friendship, Commerce and Consular Rights with Costa Rica, I have the honor to submit the following report amplifying the statements made in my cablegram No. 45, dated August 18, 11 A. M.⁵

After carefully studying the local situation I consider it advisable to await a more opportune time to propose the negotiation of the

¹ Neither printed.

² *Foreign Relations*, 1923, vol. II, p. 22.

³ *Ibid.*, 1926, vol. II, p. 912.

⁴ Negotiations were suspended while the Senate had under consideration the treaty signed with Germany.

⁵ Not printed.

Treaty to the Executive Power of Costa Rica. This conclusion is based upon the following considerations:

1. The relations between the Executive Power and Congress are not the most cordial at the present moment, and I believe that the President would hesitate to negotiate a Treaty at this time for fear that the negotiations as well as the ratification of the Treaty would meet with opposition in Congress.

2. Members of Congress and elements of the press and public have recently complained because of the preference given to Cuba in respect to import duties on certain articles, especially sugar, it being asserted that this preference is responsible for the unsatisfactory condition under which the growers of sugar cane and manufacturers of sugar are operating. Some resentment has also been manifested over the order issued by the Department of Agriculture prohibiting the importation into the United States of certain citrus fruits from Costa Rica, it being maintained that this action violates the spirit if not the letter of the present Treaty of Friendship, Commerce and Consular Rights.^a

I am of the opinion, however, that the unfavorable conditions reported above are temporary and that an opportune moment to present the matter to the Costa Rican Government will arrive at an early date. I shall carefully observe local conditions and shall present the matter to President Jiménez with the least possible delay.

In the meantime I shall be pleased if the Department will advise me as to the present status of the Treaty signed with Salvador on February 22, 1926. It has been reported here that that Treaty was amended by the Salvadorean Congress before its ratification. I am under the impression that the Costa Rican Government knows of these amendments and might propose similar amendments, or other modifications. I shall appreciate information as to the attitude of the Department relative to modifications in the proposed draft of the Treaty.

I respectfully request that two copies of the Treaty of Friendship, Commerce and Consular Rights between the United States and Germany, as finally ratified, be furnished this Legation.

I have [etc.]

ROY T. DAVIS

711.182/6

The Secretary of State to the Minister in Costa Rica (Davis)

No. 394

WASHINGTON, July 5, 1927.

SIR: By your despatch No. 790 of August 18, 1926 you reported that you considered it advisable to await a more opportune time to propose the negotiation of a treaty of friendship, commerce and consular rights with Costa Rica and stated the reasons on which that conclusion was based.

^a Signed July 10, 1851; Miller, *Treaties*, vol. 5, p. 985.

You also reported that you were of the opinion that the unfavorable conditions were temporary and that an opportune moment to present the matter to the Costa Rican Government would arrive at an early date.

By instruction No. 357 of October 26, 1926,⁷ the Department furnished you certain information which you had requested in despatch No. 790.

If the situation in Costa Rica has changed since August, 1926, so that you consider that the time is now favorable for the negotiation of a treaty of friendship, commerce and consular rights between the United States and Costa Rica the Department would be glad to have you take the matter up with the appropriate authorities pursuant to the instructions contained in its telegram No. 13 of July 12, 1926.

I am [etc.]

For the Secretary of State :

FRANCIS WHITE

711.182/7

The Minister in Costa Rica (Davis) to the Secretary of State

No. 1038

SAN JOSÉ, September 16, 1927.

[Received September 24.]

SIR: I have the honor to refer to the Department's instruction No. 394, dated July 5, 1927, relative to the negotiation of a treaty of friendship, commerce and consular rights with Costa Rica.

After discreet inquiry I am under the impression that the present moment is not opportune to present this matter in a formal manner to the Costa Rican Government, for the following reasons:

The administration of President Jiménez will end in a few months and the presidential campaign for the election of his successor is in full swing. The elections will be held in February of next year and the new President will assume office on May 8th, following. Should the treaty be negotiated now it is probable that an attempt would be made to make a political issue of it. It appears advisable, therefore, to await until after the February elections to present the matter. It is possible, though not probable, that President Jiménez might be willing to enter into negotiations after the February elections.⁸

I have found that some of the Costa Rican authorities are resentful because of the embargo established by the Department of Agriculture against shipments of oranges from Costa Rica and that they maintain that a treaty such as that proposed by the United States can be made null and void, so far as free commerce is concerned, by what they consider an arbitrary ruling on the part of the Department of Agriculture.

I have [etc.]

ROY T. DAVIS

⁷Not printed.

⁸Apparently no further efforts were made to enter into treaty negotiations with Costa Rica.

CUBA

PROPOSAL BY CUBA THAT THE COMMERCIAL CONVENTION BETWEEN THE UNITED STATES AND CUBA, SIGNED DECEMBER 11, 1902, BE REVISED¹

611.3731/225

The Cuban Ambassador (Ferrara) to the Secretary of State

[Translation]

WASHINGTON, *April 11, 1927.*

MR. SECRETARY: On November 17 of last year, 1926, Ambassador Crowder sent to my Government a note² and a detailed statement about the commerce between the United States and Cuba made by the Tariff Commission of the United States³ as a consequence of the proposition for a revision of the Treaty of Commercial Reciprocity of 1902,⁴ submitted by the Government of Cuba on previous dates. The Ambassador said at the same time that the paper from the Tariff Commission would be followed by others of the same kind from other Departments so as to promote studies of all our mercantile questions in a spirit of greater cordiality on the part of both Nations.

The successive Governments of my country voicing the general opinion have been, since 1911, asking for a study of the commercial relations between the United States and Cuba in order to arrive at a modification of the present treaty for the reciprocal benefit of the two Nations.

The late successive crises enhanced the public clamor. But the Cuban Government did not wish to have an instrument which is to endure as many years as possible, as is always the case with a commercial treaty, brought to discussion in a period of difficulties and discomfort. Therefore it has not brought of late the matter before your Government for consideration notwithstanding the note of November 17, 1926, and has endeavored through internal measures and at an enormous unilateral sacrifice to remedy the acute part of the crisis. Now upon an examination of the data submitted by the Ambassador of the United States to Cuba, my Government finds

¹ Continued from *Foreign Relations*, 1926, vol. II, pp. 10-18.

² *Post*, p. 505.

³ Not printed; the final report of the Tariff Commission was printed as *The Effects of the Cuban Reciprocity Treaty of 1902* (Washington, Government Printing Office, 1929).

⁴ *Foreign Relations*, 1903, p. 375.

itself in a position to begin, on data which both parties may accept as accurate, a joint study of all the questions, in a spirit of the greatest cordiality and, what is more than cordial, sincere sympathy which, while it has always existed between our two countries because of indelible historical memories, has recently grown stronger.

The existing commercial treaty has been in operation since 1903, a rather long time. The circumstances that gave it birth have undergone a radical change; the commerce upon which it was based has increased in the ratio of six hundred percent. Many of the articles that are now imported in large quantities in Cuba were not even known at the time of the said treaty. And, as was very wisely put by the Tariff Commission of the United States, *the benefits of the commercial treaty with respect to Cuba practically disappeared on the date when owing to the excessive output of Cuban sugar there no longer came into the United States any sugar that did not enjoy the preferential tariff treatment* and as for the United States, the world events of the last few years have had more importance for the exporting trade of this Nation than the benefits of the treaty.

A careful and continuous labor animated by a broad desire of mutual interest might serve as a basis for alterations in the antiquated precepts of the commercial treaty now in force.

I avail myself [etc.]

ORESTES FERRARA

611.3731/245 : Telegram

The Acting Secretary of State to the Chargé in Cuba (Curtis)

WASHINGTON, October 28, 1927—6 p. m.

83. Department finds in a note from the Cuban Embassy reference to a communication of November 17, 1926 which Ambassador Crowder addressed to the Cuban Government concerning reciprocity treaty. Send text at once in open mail for Department's files.

OLDS

611.3731/246

The Chargé in Cuba (Curtis) to the Secretary of State

No. 2333

HABANA, October 29, 1927.

[Received November 2.]

SIR: I have the honor to acknowledge the receipt of the Department's telegram No. 83 of October 28, 6 p. m., 1927, referring to a communication which Ambassador Crowder addressed on November 17, 1926 to the Cuban Government regarding reciprocity.

The Embassy's files reveal that on November 17, 1926, General Crowder addressed an informal note on this subject to President Machado. A copy of this note is enclosed herewith.

On November 16, 1926, however, the Ambassador sent the Sub Secretary of State of Cuba a letter regarding this matter, with which he forwarded a Spanish translation of the memorandum prepared by the United States Tariff Commission, which memorandum the Department had transmitted to the Embassy with its instruction No. 781 of August 21, 1926.⁵ A copy of General Crowder's note to Dr. Campa is forwarded herewith. Inasmuch as the memorandum in Spanish above referred to is a direct translation of the English text of the memorandum prepared by the United States Tariff Commission, and, further, inasmuch as the work involved in making a copy of this Spanish text would entail some delay in complying with the Department's request, the enclosure to Ambassador Crowder's letter to the Sub Secretary of State is not being transmitted herewith.

I have [etc.]

C. B. CURTIS

[Enclosure 1]

The Ambassador in Cuba (Crowder) to President Machado

HABANA, November 17, 1926.

DEAR MR. PRESIDENT: In pursuance of the Cuban proposals for revision of the Reciprocity Convention of 1902, a detailed study of that Convention has been made by the United States Tariff Commission and a copy furnished me with a statement that there could be no objection to presenting it informally to an appropriate official of the Cuban Government, should I deem it advisable. I have accordingly sent a Spanish translation of said memorandum to the Cuban Foreign Office. This memorandum is the first of a series of studies to be made. Others will follow from the United States Departments of Commerce and Agriculture. The purpose in furnishing these studies in advance is not to inaugurate formal negotiations but to promote a study of the underlying questions in the most cordial spirit by both Governments.

Undoubtedly the Secretary of State of Cuba will furnish Your Excellency with a copy at an early date.

I am [etc.]

E. H. CROWDER

[Enclosure 2]

The Ambassador in Cuba (Crowder) to the Cuban Subsecretary of State (Campa)

HABANA, November 16, 1926.

MY DEAR SEÑOR CAMPA: I have received from my Government a memorandum prepared by the United States Tariff Commission relat-

⁵ *Foreign Relations*, 1926, vol. II, p. 17.

ing to the proposal of the Cuban Government for a revision of the Reciprocity Convention of 1902. The memorandum in question is not in the nature of a final reply from my Government but represents the study of the Tariff Commission of the effects of the Convention upon the trade of both parties thereto, so far as the effectiveness of the respective tariff preferences can be separately estimated and distinguished from the influence of other factors tending to increase trade between the two countries. I understand that pertinent studies are likewise being conducted by the Departments of Commerce and Agriculture. Meanwhile, the Department of State is continuing to give the proposal of your Government careful consideration. Since it is desired that facts and arguments on both sides, which throw light upon the question whether the Convention of 1902 is indeed reciprocal in its actual operation, be examined in the most cordial spirit by the two Governments concerned, I have caused a translation to be made into Spanish of the memorandum of the Tariff Commission, which I append hereto, for the information of the Cuban Government.⁶ It should be understood that in handing you this memorandum I do so most informally, and that the content is, of course, confidential. You will naturally appreciate that the translation into Spanish is prepared for your convenience and is not the authentic text, which is to be found only in the English text always available to you in this Chancery in the event you should care to refer thereto.

I understand that a monograph on the same subject has been prepared by the Cuban Foreign Office. If convenient I should very much appreciate being furnished with a copy thereof at the earliest possible moment.

I am [etc.]

E. H. CROWDER

611.3731/248

Memorandum by the Secretary of State of a Conversation With the Cuban Ambassador (Ferrara)

[WASHINGTON,] December 2, 1927.

I asked the Cuban Ambassador to come in at four o'clock to discuss the matter of the revision of the commercial treaty with Cuba. The Cuban Government has sent me two notes on the subject⁷ and I have reported to the Cuban Ambassador that we had asked the Tariff Commission to make an investigation and report; that the first part of the investigation had been made and the Cuban Government had received

⁶Not printed. The final report of the Tariff Commission was printed as *The Effects of the Cuban Reciprocity Treaty of 1902* (Washington, Government Printing Office, 1929).

⁷Note of April 11, p. 503; note of October 20 not printed.

a copy of the report; that I had been promised the complete report this month and today was told that they hoped to get it to me in a few days; that it had to be passed on by the Commission itself. I told the Ambassador that I would call up the Chairman of the Commission and urge him to expedite it but as I had promised to have an informal talk with him about the subject some time ago, I said that I would like to have him outline in a general way what his Government wanted.

He said in a general way they wanted the differential on sugar increased and his suggestion to me was to make it forty per cent. instead of twenty. Nevertheless, he said, they would like to survey the whole field of the treaty; they thought they could agree on a tariff differential on a certain amount for a limited tonnage to the United States and any above that, a less differential. I am not familiar enough with the subject to be able to say whether this would be less objectionable or not. He went on to explain that we buy sugar now at the same old price and, therefore, that the differential did not at this time benefit Cuba at all and if the differential were increased to forty per cent. a large part of it would benefit the American consumer but they would get some benefit.

I explained to him, as I had done before, the difficulties in the way of taking up any negotiations as to the sugar tariff; I doubted very much, I told him, if a treaty could be put through the Senate owing to the position of Sugar growing interests in the United States and the American possessions.

As to tobacco, he thought there ought to be some increase in the differential but did not seem to be very familiar with it.

We had quite a long talk about this subject. I told him that several other countries were pressing for the same differential, notably, Haiti, Salvador and Peru; that I had explained to them that this treaty had been made years ago in the infancy of Cuba as an independent government and we could not give them the same differential as all our treaties were made on the basis of favored nation treatment, except as to Cuba; that it seemed to me that the present treaty very much benefited Cuba in keeping out the competition of other sugar growing countries. He admitted that they would not, of course, wish to have the treaty abrogated but that their sugar industry was in a very bad way; that they were going to limit it this year to four million tons; that we took about three and one-half million tons of that amount which leaves 500,000 tons to be disposed of elsewhere. He outlined the countries in which they sell—Great Britain, Spain, Italy, France, China, Japan, all of which have sugar tariff varying in amount, some of them very high. He said if I would let him know he would arrange in a short time to make us a detailed proposition. I did not encourage him that it would be possible for us to make a treaty but I said we

would investigate it very carefully. I also explained to him that the balance of trade was very much in his favor as shown by the annexed sheet. He said that that was not a fair indication because all the sugar was shipped in American vessels, insured in American insurance companies and the money for their plantations was very largely raised in the United States.

F[RANK] B. K[ELLOGG]

[Annex]

TRADE OF THE UNITED STATES WITH CUBA

	1910-14	1925	1926
Imports of sugar into the U. S.-----	\$91, 686, 000	\$199, 780, 000	\$198, 895, 000
Percentage of total-----	75. 1	76. 8	79. 3
Imports of tobacco-----	\$15, 006, 000	\$22, 207, 000	\$22, 528, 000
Total, all imports-----	\$122, 077, 000	\$261, 673, 000	\$250, 570, 000
Total, exports of the U. S. to Cuba-----	\$63, 047, 000	\$198, 655, 000	\$160, 488, 000

611.3731/250

*The Cuban Ambassador (Ferrara) to the Secretary of State*⁸

WASHINGTON, December 15, 1927.

EXCELLENCY: I have the honor to submit to Your Excellency, on behalf of my Government, in view of the conversations which we have had upon the subject, an outline of two alternative proposals which might serve as a basis for the study of a new commercial treaty between Cuba and the United States. I earnestly hope that these tentative propositions, which are put forward in the most cordial spirit, will receive serious and careful consideration, in order to determine if they afford mutually acceptable and advantageous bases for improving and strengthening the growing commercial and friendly relations of the United States and Cuba.

The first proposal which I wish to present to Your Excellency, is the following:

1. Cuba will increase the present preferential of 20, 25, 30 and 40 per cent now granted to American products imported into Cuba to 30, 35, 40 and 50 per cent, respectively.

2. The United States, on its part, will increase the present preferential of 20 per cent now granted to Cuban products imported into the United States to 40 per cent.

⁸ For texts of annexes mentioned in this note, see *Tariff Readjustment, 1929: Hearings before the Committee on Ways and Means, House of Representatives, 70th Cong., 2d sess., vol. v, schedule 5* (Washington, Government Printing Office, 1929), pp. 3228-3235.

3. The quantity of sugar which may be imported into the United States each year from the Philippine Islands free of duty shall not exceed 300,000 long tons, and any quantity which is imported over this amount shall pay the same duty as Cuban sugar.

The second or alternative proposal is annexed hereto (Annex No. I), and the following exposition relates to certain features of it.

Like the first proposal, it aims to establish a larger and more effective reciprocity between the two countries than that which now exists, but it embodies in addition special limitations, in order that the benefits proposed for the products of Cuba may not interfere with the protection extended to the competitive industries of the United States by the tariff. Furthermore, the second proposal introduces the element of a greater stability in the tariff rates between the two countries than is found in the present reciprocity convention.

In order to provide increased benefits to the products of the United States in Cuba, the following concessions would be granted by Cuba:

1. The entry free of duty of the following classes of goods from the United States:

(a) Those which are not at present dutiable from the United States.
(b) Certain classes of machinery, apparatus, instruments, etc., and all classes of vessels, namely:

1) Scientific instruments and separate parts for same (Tariff No. 213, *a* and *b*);

2) All weighing machines and apparatus, including scales and separate parts for same (Tariff No. 214, *a* and *b*);

3) Agricultural machinery and instruments (Tariff No. 216, *a*, *b*, *c* and *d*);

4) Engines of all kinds, not especially provided for (Tariff No. 217, *a* and *b*);

5) Pumps of all kinds (Tariff No. 218, *a* and *b*);

6) Steam boilers of all kinds (Tariff No. 219, *a*, *b* and *c*);

7) Locomotive and traction engines (Tariff No. 220, *a* and *b*);

8) Turntables and hydraulic cranes (Tariff No. 221, *a* and *b*);

9) Separate parts for apparatus and machinery other than electrical, when mainly of copper or copper alloys (Tariff No. 222);

10) Electrical machines and apparatus of all kinds and their accessories not especially provided for, including batteries (Part of Tariff No. 223, *a* and *b*);

11) Sewing machines, machines for embroidering and similar machines and separate parts for same (Tariff No. 224, *a* and *b*);

12) All other machines and apparatus and instruments applicable to any other use, not expressly provided for (Tariff No. 225, *a* and *b*);

13) Reimported machines and apparatus exported from Cuba to be repaired (Tariff No. 226);

14) Coaches, automobiles, velocipedes and bicycles (Tariff No. 227, *a*, *b*, *c*, *d*, *e* and *f*);

15) Carts for transportation in mines (Tariff No. 229 *b*);

- 16) Sailing vessels of all kinds (Tariff No. 232, *a* and *b*);
- 17) Steam vessels of all kinds; dredgers, floating docks and similar apparatus (Tariff No. 233, *a*, *b* and *d*);
- 18) Aircraft (Tariff No. 234);
- 19) The remnants or salvage of wrecked vessels, except their cargoes (Tariff No. 235).

The above items comprise all machinery and apparatus, except that for making sugar and alcohol.

(*c*) Certain agricultural and food products:

- 1) Wheat (Tariff No. 254);
- 2) Rye (Tariff No. 255 *b*);
- 3) Barley (Tariff No. 255 *c*);
- 4) Oats (Tariff No. 255 *d*);
- 5) Other cereals, except corn (Tariff No. 255 *e*);
- 6) Fresh apples, pears, peaches, plums, cherries and similar fresh fruits (Tariff No. 262 *b*);
- 7) Almonds of all kinds (Tariff No. 263);
- 8) Clover seed (Tariff No. 266);
- 9) Flaxseed (Tariff No. 267);
- 10) Other seeds; alfalfa, millet, and other seeds not especially provided for (Tariff No. 268, *a*, *b* and *d*);
- 11) Cattle and other animal feed (Tariff No. 269, *a*, *b*, *c*, *d*, *e* and *g*);
- 12) Cotton, raw (Tariff No. 112 *a*).

The free entry into Cuba of these articles would undoubtedly bring about an increase of importance in the Agricultural exports of the United States, and would benefit American farming interests. A table is appended (Annex No. II) showing the rates of duty which all the above articles pay when coming from the United States and from other countries, respectively. The latter rates would represent the margin or differential which the United States would enjoy if these products entered free of duty.

It is provided that the duties which other countries at present pay on these articles may be increased or reduced, but that in the latter event the duties shall not be lower than 15 per cent *ad valorem* or the equivalent in specific duties. This provision assures to those classes of goods from the United States the continued enjoyment of a substantial preferential.

2. In addition to the free entry of the commodities mentioned above, it is proposed that reductions of 30, 40, 50 or 60 per cent of the Cuban customs duties be granted to the products of the soil or industry of the United States, in place of the present reductions of 20, 25, 30 or 40 per cent, respectively. The specific commodities to which these various percentages of reduction would apply, would be agreed upon between the two governments and the list inserted into the treaty. However, it is provided that not all the products of the soil

or industry of the United States shall receive, upon importation into Cuba, a reduction of duty, as is now the case, but that only one half, approximately, of the commodities separately listed in the tariff schedules of Cuba shall enjoy such reductions. On the remaining articles, the duty for the United States would be the general rate or the rate granted to the most favored nation. These exceptions would not be of material importance to the United States, since they would represent products or goods which the United States does not export to any extent, while on those which were characteristic of the agriculture or industry of the United States, the preferential (from 30 to 60 per cent) would be substantially greater than at present, and sufficient, in many cases, to entirely displace similar competitive goods of other countries in the Cuban market.

The concessions which it is proposed that the United States shall grant to Cuba are the following:

1. That articles which now enter duty free from Cuba, in accordance with the present reciprocity convention, shall continue to enter free.

2. That a gradual reduction be made in the duties on sugar from Cuba, over a period of approximately ten years, until the duty is entirely removed, but such reduction of duty or free entry shall apply only to a fixed quantity of sugar from Cuba each year, to be specified in the treaty. (This proposal will be explained below in its bearing upon the sugar industry of the United States.)

3. That the customs duties on cigars from Cuba shall not exceed in total a rate equivalent to 50 per cent ad valorem.

4. That all other products of Cuba shall enjoy, as at present, a reduction of 20 per cent of the rates of duty which may be in force in the United States, but the duty which may be collected on any product of the soil or industry of Cuba shall in no case exceed a rate equivalent to 35 per cent ad valorem.

While providing for an enlarged and more effective reciprocity in the trade relations between the two countries, due consideration has been given to the fact that the competitive industries of the United States are now enjoying a tariff protection. Consequently the benefits which are proposed for the products of Cuba are limited so as to avoid injuring American industries. In the case of cigars, it is considered that a duty of 50 per cent ad valorem, together with the higher internal tax levied on Cuban cigars, which fall almost entirely within class E of the Revenue law, would adequately protect the American cigar industry against Cuban competition. The different quality of the products moreover makes direct competition between them relatively slight.

In the case of other Cuban products besides sugar and cigars, it is proposed that the maximum rate of duty shall be equivalent to not

more than 35 per cent ad valorem, since this rate is presumed to be high enough to assure protection to the products of the United States with which Cuban imports might come into competition.

Plan proposed in regard to sugar duties and imports.—In the case of sugar, the restriction proposed as a protection to the industry of the United States, consists in admitting at the increased preferential rates (and eventually without duty) only a fixed quantity of sugar from Cuba each year, and in decreasing the duty very gradually. Under these two conditions, it is improbable that the domestic producers would lose, to any substantial extent, the tariff protection which they now enjoy and which consists of the addition of 1.7648¢ per pound to the world price for 96 degrees centrifugals and correspondingly for other sugars. In accordance with the plan outlined, the duty on Cuban sugar would be slightly reduced each month, through an increase in the present Cuban preferential of one half of one per cent each month. This reduction would be continued until the Cuban preferential reached one hundred per cent, that is, until the duty was entirely removed. This gradual decrease in the duty, requiring a period of several years (in all over 9 years), would, it is believed, cause only a minimum disturbance, if any, to the domestic industry, inasmuch as the very small monthly reductions in duty, representing only 0.01103¢ per lb., would not be reflected in the price. Over a period of months, the reduction in the duty would of course not be negligible and would eventually represent the full amount of the present Cuban duty. This does not imply, however, that the present duty would be without effect upon the price, since it would still be levied on sugars from Cuba imported in excess of the amount fixed for the year. Inasmuch as only a limited quantity of Cuban sugar could be imported at the reduced rate (or duty free), and all additional amounts would have to be imported at the present rates of duty, it is to be expected that the price of sugar in the markets of the United States would not be depressed by that proportion of Cuban sugar which received more favored treatment, and that domestic sugars would continue to enjoy substantially the present tariff protection.

The limitation upon the imports of Cuban sugar subject to reduced tariff rates, would also tend to prevent the price of sugar in the American market from falling below the cost of production, thereby ruining the industry, as the Cuban sellers would not then be under the strong pressure which they are today to dispose of the largest amount of sugar possible in the American market. The United States under present conditions is greatly oversupplied with sugar, that is, when the amount of the domestic and Cuban sugars available are added together, they are far in excess of immediate requirements. This condition of oversupply makes inevitable an incessant and

disastrous competition between the sugars from all the various sources of supply. By fixing a limit to the quantity of Cuban sugar which could enter the United States at a reduced rate of duty (or duty free), the American market would be relieved to a large extent of the pressure which the present oversupply exerts and prices would tend to adjust themselves to the needs of consumption. It is this stability in market conditions which Cuba desires to promote, in the interest of the consumers as well as of the producers of sugar.

The exact amount of Cuban sugar which would enter each year under the reduced duty (or higher preferential) is indicated in the text of the proposal. These figures, however, are offered in a tentative way, as a basis for consideration. They are nevertheless the result of a careful examination of the figures for imports and "consumption" of sugar in the United States during the past twenty or thirty years, which are annexed hereto (Annex No. III). It will be seen in the table submitted as Annex No. IV that the quantity of sugar from Cuba which was actually entered for consumption during the past five years, 1922 to 1926, averaged 3,505,735 long tons per year. For 1925 and 1926 the average was 3,581,432 long tons. It is however proposed to begin with a limit of 3,300,000 long tons, and to gradually increase this amount during the first ten years to 4,000,000 tons, after which the increase would be at the uniform rate of 150,000 tons per year. Provision is made for revising these figures by agreement between the two governments, at any time, if such revision is required to safeguard the interests of the sugar industry of either the United States or Cuba or to ensure to either party the enjoyment of the benefits contemplated by the treaty.

The average yearly increase in the consumption of Cuban sugar in the United States, based on Willett and Gray's figures for the last ten years, 1917 to 1926, has been 162,475 long tons per year. (Annex No. V.) The quantities of sugar from Cuba to which the reduced rates of duty would apply, would, therefore, be substantially less than the amounts which it is proper to estimate would normally be required from Cuba in each of those forthcoming years. Therefore Cuban sugars paying the present Cuban rates would be imported to a considerable extent, and these sugars would establish the price for all Cuban sugars imported into the United States and consequently for all domestic sugars also.

The limitation of importations of Cuban sugar enjoying greater preferential (and eventually free entry) would allow for a considerable expansion of United States production, fully as great as that which has been taking place up to the present time. It would, however, be necessary to place a restriction upon the quantity of sugar from the Philippine Islands which could be imported free of duty

into the United States, in order that the limitation upon the entry of Cuban sugar might not result simply in the expansion of the Philippine sugar industry and in displacing also the production of the United States. The Proposal submitted therefore contains a provision that the amount of sugar which may enter the United States free of duty from the Philippine Islands shall not exceed 300,000 long tons in any one year, and that any imports above this amount shall pay at the rate of 1.7648¢ per pound for 96° centrifugals. During the last five years, 1922 to 1926, sugar entered for consumption into the United States from the Philippine Islands has averaged 308,020 long tons per year, and in 1926 amounted to 339,674 tons. (Annex No. IV).

The proposal submitted provides for greater stability than the present reciprocity convention, in the rates of duty which would be levied in each country on the products of the other, notwithstanding the changes which might be made in the tariff of either country.

The larger number of commodities which under the plan proposed would be admitted from the United States into Cuba free of duty, and the entry of a substantial quantity of Cuban sugar into the United States free of duty, would place the tariff relations of the two countries on a more stable footing than they rest at present.

It is felt by the Government and people of Cuba that there are very strong reasons for urging upon the Government of the United States a better tariff treatment for Cuban products.

The treatment which our products have received in the United States under the various tariff laws since 1903 has been decidedly unfavorable, notwithstanding the reciprocity convention. This fact becomes evident, when the rates of duty levied on products from Cuba are compared with those which are levied on the products of other countries with which the United States has no reciprocity agreement. On the one hand, the duties on Cuba's main products are very much higher than the average duty levied by the United States on all dutiable imports from other countries, and at the same time, the proportion of goods which enter the United States duty-free from other countries is large, while from Cuba it is very small. Therefore, countries which have no reciprocity with the United States are more favored than Cuba, on account of the fact that the export products of Cuba are heavily taxed by the tariff laws of the United States and because Cuba does not produce to any extent those articles which enter free of duty into the United States. It is an unfortunate situation for a neighboring country, which maintains in all its economic and national activities very cordial and close relations with the United States, to be precisely the one to feel most severely and discouragingly the effects of the tariff policy of the United States, even though it has not been the express intention of that policy to injure her. Under

these circumstances, it seems to be clearly the duty of the statesmen of both nations to find means of bringing about happier and more equitable tariff relations between the two countries.

From 1903 to 1926, over fifty per cent of all goods imported into the United States, have come in free of duty. From South America the average has been about 85 per cent, and from Europe (which sends to the United States mainly manufactured goods) it has been over 35 per cent, while only about 4 per cent of the products from Cuba have entered duty-free. The table which constitutes Annex No. VI shows the proportion of duty-free imports into the United States in the years 1900 to 1926, from all countries (general total) and from the various regions of the world, compared with the proportion of duty-free imports from Cuba, and Annex No. VII shows the proportion of duty-free imports from Cuba and from other important countries during the years 1922 to 1926, inclusive. The data presented in these tables reveal that only a very small proportion of the imports from Cuba into the United States consist of duty-free goods, while a large part of the imports from other countries belongs to this class.

There are no published figures to make possible an actual comparison between the level of the duties which are assessed in the United States on goods imported from Cuba and on those imported from other individual countries. But it is probably correct to say that the country whose products are most highly taxed by the tariff of the United States is Cuba, due to the fact that her exports consist so largely of sugar and tobacco.

The equivalent ad valorem rate collected on dutiable goods entering the United States from all countries (general total) and from Cuba before the war (fiscal years 1903-04 to 1913-14), as well as the respective amounts of duty collected, are given in Annex No. VIII. This table shows that all dutiable merchandise imported into the United States during that period paid an average ad valorem rate of 42 per cent, while dutiable goods from Cuba paid 53 per cent. In this period, from December 27, 1903, to June 30, 1914 (ten and a half years), the total amount of duty collected on merchandise from Cuba was \$553,500,624, out of a grand total of \$3,250,826,475, that is, 17 per cent was derived from Cuban imports (Annex No. VIII). During the existence of the present tariff act of 1922, or to be more exact, during the five years 1922 to 1926, inclusive, the total amount of duties collected on all merchandise imported into the United States has been \$2,704,647,919, while the duty collected on sugar imported from Cuba has been \$675,300,316, or 25.2 per cent of the total customs duties of the United States. In some years (for instance in 1922) the percentage has been as high as 32.0 (Annex No. IX). The average rate of duty collected on all dutiable imports during those five years has

been 37.70 per cent ad valorem, while on sugar from Cuba, the average ad valorem rate has been 53.20 per cent, being however much higher in some years (75.49 per cent in 1926).

The rates of duty collected on cigars from Cuba in the years 1922 to 1926 has varied from 62.5 to 66.3 per cent ad valorem, notwithstanding the 20 per cent reduction of duty. On leaf tobacco the average Cuban rate during these years has been about 35 per cent ad valorem.

I am presenting these figures to the consideration of Your Excellency, because they seem to point unmistakably to the conclusion that the treatment of Cuban products in the American tariff is extremely severe and out of harmony with the spirit of the reciprocity convention which was entered into, as its preamble states "animated by the desire to strengthen the bonds of friendship between the two countries", as well as "to facilitate their commercial intercourse by improving the conditions of trade between them".

Accept [etc.]

ORESTES FERRARA

123 J 881/8

The Ambassador in Cuba (Judah) to the Secretary of State

No. 1

HABANA, December 23, 1927.

[Received January 3, 1928.]

SIR: I have the honor to confirm the Embassy's telegram No. 126, December 21, 11 AM.,⁹ informing you that I arrived in Habana on the morning of December 21st, and my telegram No. 128, December 23, 12 M.,⁹ informing you that I presented my Letter of Credence to the President of the Cuban Republic this morning.

In response to a request made to the Cuban Secretary of State immediately after my arrival, Doctor Martínez Ortiz expressed his willingness to receive me at eleven o'clock the same morning. Accordingly I then called upon him and handed to him the office copies of the Letter of Recall of my predecessor, General Enoch H. Crowder, and of my Letter of Credence. At the same time I handed him a copy of the remarks which I proposed to make upon my presentation to the President, with whom I requested an audience for the purpose of presenting the Letter of Recall of my predecessor and my own Letter of Credence.

This morning, in accordance with arrangements previously made, Señor Herrera, Chief of the Despatch of the President's office, accompanied by Captain Julio Morales Coello, the President's Aide, and Mr. Cayetano Quesada acting as Introducer of Ambassadors, called at my hotel where I was awaiting them with the official staff of the Embassy and I was driven with full honors to the Presidential Palace.

⁹ Not printed.

When I had made the speech which I had prepared (a copy of which is transmitted herewith as Enclosure No. 1), and the President had read his reply (a copy and translation of which is transmitted herewith as Enclosures Nos. 2 and 3), I was presented to the members of the Cabinet and other high officials who were present and then had a long and most pleasant informal conversation with President Machado. I was received and treated with warm cordiality by the President.

I call to your attention the next to the last paragraph of President Machado's speech. The Cuban morning English language newspaper, *The Havana Post*, commented upon this paragraph as being something unusual in the speeches ordinarily made at the presentation of Letters of Credence and as presaging further formal action by the Cuban Government in regard to a revision of the Reciprocity Treaty. However, none of the Spanish language newspapers commented upon it.

Upon my taking leave, I was escorted back to my hotel with all due ceremony.

I have [etc.]

NOBLE BRANDON JUDAH

[Enclosure 1]

Remarks of the Ambassador in Cuba (Judah) on the Occasion of His Reception by President Machado, December 23, 1927

MR. PRESIDENT: I have the honor of handing to Your Excellency the Letter of Recall of my distinguished predecessor, General Enoch H. Crowder, who was prevented from presenting it in person by reason of his absence from your country at the expiration of his term.

I have also the honor of presenting to Your Excellency my Letter of Credence as Ambassador of the United States of America to Cuba. In presenting my credentials, I do so with the hope that I may be of assistance in maintaining the close and cordial relations that have always existed between these two great sister Republics of North America. To be appointed as the representative of my government at the Capital of Your Excellency's government I consider a high privilege and a distinguished honor.

The interests of both Republics are the same, the same economic and political factors make for prosperity and happiness in both countries, each country is dependent upon the other. During the existence of these two sovereign nations no serious question has arisen between them which has not been amicably settled with mutual understanding and respect.

That this condition may always endure is the wish of the people of the United States of America. That, as their Ambassador, my actions may contribute to this happy result is my earnest desire.

[Enclosure 2—Translation]

President Machado's Reply to the Remarks of the Ambassador in Cuba (Judah) on the Occasion of His Reception, December 23, 1927

MR. AMBASSADOR: I have the honor to receive from the hands of Your Excellency the Autograph Letters which accredit you as Ambassador Extraordinary and Plenipotentiary of the United States in Cuba, as well as those of Recall of your illustrious predecessor, General Enoch H. Crowder, of whom we shall keep a memorable remembrance for his constant and sincere efforts to maintain that cordiality which is the basis of the present relations between our respective governments and peoples.

You will not need, Sir, many days to perceive that the decisive assistance of your great country, assisting the tenacious and vigorous action of our liberators in those anxious hours of 1898, has remained imperishably engraved in the heart of the Cubans.

A high spirit of gratitude and a similar conception of human ideals caused us to join your noble nation in the great European conflict in which Your Excellency took an active and honorable part.

Many and close economic interests have always united us and we have shown to the World that its peoples can find in a policy of generosity and of mutual confidence the pacific result of collective happiness.

Perhaps present circumstances may render advisable a careful revision, for mutual benefits, of our mercantile relations, in accordance with the experience of about twenty-five years, as with interests so intimately connected we must try to make them more ample and harmonious since, as Your Excellency says, those factors work for the prosperity and felicity of both peoples.

I hope, Mr. Ambassador, that at all times you will find pleasant and easy the honorable mission which has been confided to you by the great sister Republic for whose future, as well as that of its illustrious President, I have the most sincere good wishes.

611.3731/250

The Secretary of State to the Cuban Chargé (Altunaga)

WASHINGTON, January 12, 1928.

SIR: I beg to refer to the note which the Ambassador handed to me on December 15, 1927, containing certain proposals for the modification of the commercial agreement of 1902 between Cuba and the United States. This matter is receiving careful consideration, and I shall communicate to you the views of this Government as soon as the necessary study of your Government's proposals shall have been completed.

Accept [etc.]

FRANK B. KELLOGG

PASSAGE OF CUBAN CONSTITUTIONAL AMENDMENT BILL

897.00/2656

The Ambassador in Cuba (Crowder) to the Secretary of State

No. 2017

HABANA, May 5, 1927.

[Received May 12.]

SIR: I have the honor to acknowledge the Department's instruction No. 960 of April 30, 1927,¹⁰ enclosing a copy of a memorandum of conversations between the Chief of the Division of Latin American Affairs and the President of Cuba, held on the train from Key West to Washington April 20-22.¹⁰ Any comment which I might care to make in regard thereto is requested.

In reply I have the honor to state that in view of the scope of the discussions and the tactful and thorough manner in which the Chief of the Latin American Division has covered the principal points at issue, only brief observations are pertinent. It seems to me that the opportunity has been exceedingly well availed of to place before General Machado in a friendly and informal manner the Department's views upon questions of present utmost concern.

In particular I believe that nearly all that may properly be said in regard to the proposed constitutional amendments has been voiced. It is to be hoped that as a result of that discussion the President may cause the more objectionable features of the Bill to be eliminated. Nevertheless I am not thoroughly convinced that such will be the case nor that he will cause revision of the Bill to include certain important provisions.

In the first place, it is to be regretted that General Machado's commendable frankness did not extend to discussing with the Chief of the Latin American Division the provision carried in the Constitutional Amendment Bill (4th Section of the Transitory Provisions) that the constitutional delegates to be elected subsequent to the passage of the Bill shall be elected under the Electoral Census of the last elections, that is the Census for the year 1919 revised to 1926, when it is known that many complaints and numerous electoral contests based upon the falsification of revisions of the Electoral Census have been made, and also because if the Bill passes in its present form many people who have acquired franchise since the last revision of the Electoral Census will be deprived of voting for the constitutional delegates and many others who have lost the electoral franchise will be permitted to vote.

Secondly, there is the important point of control of the size of the Cuban House of Representatives. It will be recalled that Article 48 of the Cuban Constitution provides for representation from each

¹⁰ Not printed.

Province of the Republic on the basis of one Representative for each 25,000 inhabitants or fraction thereof over 12,500. Since obviously the maintenance of that fixed ratio would lead to impracticable growth in the House as the population of the country increases there was inserted in the original Constitution as the Fourth Transitory Provision a ruling which reads in effect as follows: The basis of population which is established in relation to election of Representatives in Article 48 may be changed by law whenever in the judgment of Congress it should become necessary through the increase of the inhabitants as may be shown by the census which may be periodically taken. Despite this authority the membership of the Lower Chamber has been permitted to grow from 63 in 1902 to 128 in 1927, with the result that the House has become an unwieldy body. During the 25 years elapsed the Congress of Cuba has never made use of the authority possessed under the Fourth Transitory Provision of the Constitution and I am of the opinion will of its own accord never reduce its proportionate number. Upon the other hand, the Congress of the United States upon the somewhat similar authority granted it in Article 3 of the Constitution of the United States providing for revision every ten years has revised its proportionate representation with each census. In fact the original basis of one Representative to each 30,000 inhabitants, as it stood in the year 1790, was periodically altered until in 1910 the basis was one to each 211,877 inhabitants, so that the Lower House of the Congress of the United States has maintained its membership in a certain proportionate relation to that of the Senate, i. e.; 106 Representatives to 26 Senators in 1790 and 435 Representatives to 96 Senators in 1910. It would appear that in Cuba the only practicable means of altering the basis of representation established in Article 48 of the Constitution is by a transitory constitutional amendment fixing a new unit ratio upon which representation of the Provinces in the Lower House may be computed.

Further, as regards the Constitutional Amendments, it is most important that a clause more clearly defining and restricting the immunity which shall be granted to members of both Houses of Congress shall find place in the present Bill. In this connection I invite attention to recommendation (b) in the messages of President Zayas of May 21 and November 7, 1921, proposing at my initiative an amendment to the Constitution which it is believed would have very thoroughly defined the question of congressional immunity.

Finally, it seems to me equally important to include an amendment to the Constitution providing for compulsory process to obtain the attendance of members of Congress at the Sessions of their respective Chambers, thus preventing for the future the disgraceful "legislative

strikes" which have occurred from time to time throughout the history of the Republic. This amendment, if incorporated, might well extend in its effect to the provincial and municipal councils. I believe that the Department will appreciate the urgency of such a clause if it will advert to my despatch No. 208 of July 17, 1923,¹¹ transmitting a historical memorandum relative to the work of the Cuban Congress, upon pages 5 to 8 of which memorandum a discussion is entered into relative to the difficulties encountered in maintaining quorums in the House and Senate. It will be therein observed that Governor Magoon¹² was thoroughly convinced of the seriousness of the situation and to counteract it promulgated a Decree, No. 7, of January 2, 1909, providing for compulsory process against absent Congressmen. However, this Decree remained a dead-letter during the majority of the ensuing administration of President Gomez and in the latter part of that administration it was repealed by Congress. There consequently remains no present means of enforcing attendance and it is not likely that Congress will itself take the initiative in passing the necessary remedial legislation. It would therefore seem advisable to avail of this opportunity to add to the proposed Constitutional Amendments a provision directed towards the ends under immediate discussion.

As to the proposed revision of the Reciprocity Treaty, treated of in the Department's memorandum of discussions, the burden of proof of justification therefore would appear to rest with the Cuban Government. While it is true that the Government of the United States has not submitted its final response to the representations of the Foreign Office of last year in the matter,¹³ the memorandum prepared by the United States Tariff Commission¹⁴ carries a presumption against revision which must be overcome by data furnished by Cuban sources. The modification or cancellation of the Platt Amendment and its constitutional parallel would seem properly to have been left to the initiative of the United States. This further defines, as the logical course for Cuba to pursue, the conduct of its affairs upon such plane that the Government of the United States may ultimately voluntarily consider action in regard to the Platt Amendment. The remarks quoted concerning the national lottery, labor matters, the Sixth Pan American Conference et cetera, were also most helpful to this Chancery.

Prior to concluding this despatch it may not be inappropriate to cite the conversations as another very tangible evidence of the dispo-

¹¹ Not printed.

¹² Charles E. Magoon, Provisional Governor of Cuba, 1906-1909; see *Foreign Relations*, 1906, pt. I, p. 494.

¹³ See *Foreign Relations*, 1926, vol. II, pp. 10 ff.

sition of the present administration in Cuba to cooperate with the United States and to seek in America its closest political and economic *rapprochement*. Such tendency, if it is to be indefinitely maintained, must eventually be reciprocated in some material fashion. While the Department's disinterested and helpful policy in regard to purely Cuban affairs is and always has been above intelligent question, the United States has acquired with or without cause the reputation of a somewhat hard bargainer where the interests of the two nations conflict. I therefore hope that at some future date the opportunity may occur to afford proof of American altruism through some concession upon which Cuban desire is centered. This may be possible in part by modification of the United States Statutes so as to permit the introduction of tobacco in small quantities with the corollary result of facilitating parcel post relations. I do not necessarily suggest as advisable, or even practicable, eventual compromise in regard to the Platt Amendment, the Reciprocity Treaty or the tariff on sugar, but some considerable concession at a future date to Cuban aspirations would surely go far towards assuring that Cuba will for long remain an affirmative entering wedge into the good will of this hemisphere.

I have [etc.]

E. H. CROWDER

837.00/2646

The Secretary of State to the Ambassador in Cuba (Crowder)

[Extract]

No. 970

WASHINGTON, May 13, 1927.

SIR:

As regards the attitude of the Department towards the proposed constitutional amendments, you are informed that for reasons of policy the Department does not consider that in the circumstances it would be justified in raising any objections to these amendments. The Department is, however, keenly interested in observing the progress of this matter and especially the activities of the opposition. You are requested to report to the Department from time to time whether in your opinion legal methods are being followed as regards consideration of the amendments by the Senate, election of the Constitutional Assembly, et cetera, and especially whether a condition exists which gives rise to the possibility of disorders or revolution.

Should you be consulted by President Machado with regard to the proposed amendments or the methods being followed to procure their adoption you are authorized to discuss these matters orally and informally with the President, explaining to him your own views, which are understood to be in agreement with those of the Department. In

this connection reference is made to the Department's confidential instructions No. 952, April 26,¹⁴ and No. 960, April 30,¹⁵ which should be considered as supplementary to this one.

I am [etc.]

FRANK B. KELLOGG

837.00/2668

The Chargé in Cuba (Winslow) to the Secretary of State

[Extracts]

No. 2112

HABANA, June 13, 1927.

[Received June 16.]

SIR: In the last paragraph of the Department's instruction No. 970 of May 13, 1927, the Embassy was authorized, if consulted by the President, to discuss with him matters pertaining to the Bill of Amendments to the Constitution. I have the honor to report that General Machado indicated a desire to hold such informal discussion and that in pursuance of the authority granted him by the Department the Ambassador went over with the President and other officials called in, such as the President of the Senate, Dr. Vasquez Bello, the provisions of the legislation, care being taken to leave no doubt that no representations were being made but that the statements advanced were merely in the way of a friendly expression of opinion.

On May 29, in response to the request to the Ambassador of Dr. Vasquez Bello, immediately subsequent to General Crowder's departure the Embassy confirmed its view point in a further discussion of the matter. At that time an informal memorandum bearing no indication of its source was left with the Senator in amplification of the conversation. The memorandum . . . ended with a resumé of the Ambassador's personal views as to what might constitute an acceptable and workable compromise upon modifications to the legislation. The eight points included under the latter heading as conclusions were:

"(1) A six year term for the President, with immediate reelection prohibited;

(2) A six year term for Senators with the Senate renewable in half portion every three years, or if unavoidable a nine year term with the Upper House renewed in third part every three years;

(3) A six year term for Representatives, the House to be renewed in half portions every three years;

(4) Six year terms for provincial and municipal elective officers, the provincial and municipal assemblies however to be renewed in half portion every three years;

(5) Representation in the Senate to be increased from four to six Senators per Province or to a total of 36.

¹⁴ Not printed; it transmitted a copy of the memorandum of April 23, by the Chief of the Division of Latin American Affairs, recording a conversation between President Coolidge and President Machado, p. 525.

¹⁵ Not printed.

(6) Basis of representation in House of Representatives to be cut down by one-half, or to be established on principle of one Representative to every 50,000 inhabitants;

(7) Prorogue of terms of all elective officers to be limited to the shortest periods in which transition may be made to the new electoral calendar and synchronization of terms thus accomplished; and

(8) In addition to the establishment of a Federal District in Habana all the major cities of the Republic to be given the city manager form of administration."

The President of the Senate voiced appreciation of the Embassy's courtesy and indicated that generally speaking he was in entire conformity with this point of view. He thought, however, that two of the points enumerated above would not be susceptible of exact incorporation in the bill but that they could be adopted in principle. These were points (2) and (6). Relative to point (2) he believed that it would be practicable to provide for nine year terms for Senators, the Senate to be renewable in third part every three years. The shorter term of six years would, in his estimation, meet opposition because it would actually cut the terms at present in force—eight years. More or less the same argument was advanced concerning the suggestion that representation in the Lower House be based on one member for every 50,000 instead of one member for each 25,000 inhabitants. The adoption of such a prescription would, of course, vacate the seats of a large number of present Congressmen and naturally lose support in the House for the bill. He, however, thought it could be managed to adopt the 50,000 to one ratio for the future.

Shortly after the conversation alluded to a Committee of Senators began earnest discussion of modifications to the Constitutional Amendment Bill. Conferences were also had with a joint commission from the House and Senate in order to reconcile differences of opinion between the Chambers. As a result the Senate Committee has drafted and reported an altered form of the Bill as transmitted herewith in original and translation,¹⁸ which will come up for debate in the Senate in the immediate future. I believe that the new Bill is very much more acceptable than the old measure though the prorogue provisions are subject to widespread popular disapproval. . . .

I shall naturally closely follow developments relative to the Bill of Constitutional Amendments and report thereon promptly to the Department, especially keeping in mind, should the redraft measure be adopted by Congress, the considerations in which the

¹⁸ Not printed. The Spanish text is published in *Diario de la Marina*, June 9, 1927. d

Department manifests an interest in its instruction under acknowledgment relative to compliance with legal methods in placing the measure before the people for their approval or rejection.

I have [etc.]

L. LANIER WINSLOW

837.00/2674

The Chargé in Cuba (Winslow) to the Secretary of State

No. 2148

HABANA, June 30, 1927.

[Received July 6.]

SIR: Referring to the last sentence in the penultimate paragraph of my despatch No. 2139 of June 27, 1927,¹⁷ I have the honor to transmit herewith a complete translation of the Constitutional Amendment Bill¹⁷ as it was published in the *Gaceta Oficial* of June 21.

I have [etc.]

L. LANIER WINSLOW

VISIT OF PRESIDENT MACHADO TO THE UNITED STATES

033.3711/55

The Secretary of State to the Cuban Ambassador (Ferrara)

WASHINGTON, March 26, 1927.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's esteemed communication of March 22, 1927,¹⁷ informing me that the trip of His Excellency General Gerardo Machado, President of the Republic of Cuba, to the United States of America has been definitely fixed for April 20, 1927.

In reply I have the honor to express the pleasure with which the announcement of President Machado's intention to visit the United States has been received, and to assure you of the sincere welcome which will be accorded His Excellency by the Government and people of the United States.

Accept [etc.]

FRANK B. KELLOGG

033.3711/73

*Memorandum by the Chief of the Division of Latin American Affairs
(Morgan)*

[WASHINGTON,] April 23, 1927.

Conversation between President Coolidge and President Machado, Mr. Morgan interpreting, the Cuban Ambassador present but not participating.

¹⁷ Not printed.

President Machado said that he sought this opportunity to lay before President Coolidge several ideas, not with a view to asking anything but simply because Cuba had always sought the counsel and help of the United States and had in every case profited by the advice and assistance of this country.

President Machado first touched upon the problem of Cuban sugar and pointed out that the present preferential did not wholly protect Cuban sugar in the American market, emphasizing the fact that Santo Domingo sugar could be sold in the American market at the same price as Cuban sugar notwithstanding the preferential. He recognized the fact that this was a question which required considerable study and that perhaps no remedy satisfactory to all parties could be found immediately.

In reply President Coolidge said that the question of Cuban sugar and the needs of Cuba were already receiving consideration in this country. We realized the problem that existed and were disposed to do anything we could to help Cuba. He was by no means sure that an increase in the preferential rate would give a satisfactory result, it might only lead to more over production of Cuban sugar. President Coolidge also pointed out that any change in tariffs would have to have the approval of Congress, in fact it would probably require a new treaty which would have to be approved by both the Senate and House. Congress had not always, he said, shown itself disposed to enact the legislation which we wanted. He pointed out as an example the failure of Congress to change the law limiting the shipment of Cuban cigars by parcel post. However, President Coolidge said, he would have the Department of Commerce make a thorough study of the Cuban commercial treaty and the needs of Cuba in connection with her sugar industry and would then see what could be done.

President Machado then spoke of communistic agitation in Cuba and said that his Government had adopted the policy which he believed was the policy followed by the United States Government in dealing with agitators, they had deported certain ones who were of foreign nationality. Following this, said President Machado, certain labor agitators had come to the United States and addressed themselves to the American labor leaders criticizing and abusing President Machado and his Government.

President Coolidge said in reply that the American Federation of Labor was strongly opposed to communism; that if any agitators came from Cuba to favor the ends of communism they would meet with no sympathy from the American Federation of Labor. President Coolidge appreciated President Machado's problem in dealing with communism and said that he had personally heard no criticism of President Machado and his Government and that he had the utmost confidence in the present Government of Cuba.

President Machado then went on to explain in considerable detail the various constitutional reforms now before the Cuban Congress. He emphasized the fact that he did not desire to hold office any longer than was necessary to complete the reform work which he was now carrying out, and which he described in considerable detail. He did not want, he said, a reelection, he was absolutely opposed to the principle of reelection as much for himself as for others. He felt it essential that Cuba should have in its Constitution the non-reelection principle. Furthermore, he did not want an additional four years; he did not intend that the amendments as finally adopted should prolong his term for four years, but only for two. Two years he said were necessary for him to complete his work, and moreover it was absolutely essential that the next election in Cuba should be postponed that long. President Machado went on to explain how the amendment was to be submitted to the people for their approval.

In reply President Coolidge said that he had had no opportunity to study the amendments in detail and could not therefore offer an opinion as to their value or whether they were desirable or undesirable. He said that the United States has in Cuba, as Ambassador, General Crowder who is probably more intimately acquainted with Cuban affairs than any other American and who is, moreover, a warm friend of the Cuban people. If President Machado desired a friendly and impartial opinion as to the value of these amendments the President could only suggest that General Crowder would undoubtedly be glad to consult with President Machado and advise him in a friendly way on this matter. With regard to the general question of the amendments President Coolidge said that the United States felt that this was a question for the Cuban people and their Government to decide; that the United States only desired that the people of Cuba should have whatever Government and Constitution they themselves genuinely wanted.

President Machado then said that there was one other question which he wished to submit, not as President of Cuba, but simply as one friend speaking to another, and he wanted it distinctly understood that he was not bringing this forward in any way as a petition but simply as a thought which he believed merited the President's consideration. The Platt Amendment,¹⁹ President Machado said, was not injurious to Cuba, on the contrary it was a benefit to Cuba, all the Cuban people understood this; they had nothing to complain of in the way the United States had interpreted and acted upon the Platt Amendment. Nevertheless, it was an undisputable fact that it did a certain amount of moral damage to Cuba; that

¹⁹ See the President's message to Congress, March 27, 1902, *Foreign Relations*, 1902, p. 320; also the treaty between the United States and Cuba, May 22, 1903, *ibid.*, 1904, p. 243.

certain nations continually charged Cuba with lacking complete sovereignty and independence, many of the nations which criticized Cuba, General Machado said, really enjoyed less independence themselves than Cuba did, but that did not make it any less embarrassing for Cuba. President Machado hoped that some day some modification of the Platt Amendment could be brought about. He did not ask President Coolidge to do anything now or even to express any opinion, he simply wanted him to have this matter under consideration and some time before he left office turn it over in his mind and see whether he thought something should and could be done.

In reply President Coolidge said that as the Platt Amendment was a part of a bilateral treaty and was, moreover, an integral part of the Cuban Constitution, it might really be considered as much Cuban as 'American, it was just as much a Cuban amendment as it was a "Platt" amendment. Nevertheless, the President said, he appreciated the situation of Cuba and the embarrassment caused by foreign criticism and he wished to say that the United States had no desire to force anything on Cuba which was unnecessary or detrimental to the interests of Cuba.

MORGAN

033.3711/77: Telegram

The Cuban Secretary of State (Ortiz) to the Secretary of State

HABANA, May 7, 1927.

[Received 6:20 p. m.]

The President of the Republic on returning to Cuba has brought his people the best impressions of the honors and courtesies extended to him while in your country. In the name of the Government and People of Cuba I wish to convey to you our sincere and deepest appreciation.

RAFAEL MARTÍNEZ ORTIZ

CONSENT OF THE UNITED STATES GOVERNMENT TO CONVERSION
OF \$9,000,000 OF THE CUBAN PUBLIC DEBT

S37.51/1210

The Secretary of State to the Cuban Ambassador (Ferrara)

WASHINGTON, June 25, 1927.

EXCELLENCY: With reference to the note addressed to my predecessor by the Cuban Chargé d'Affaires on October 19 [18], 1922,²⁴ stating that the Congress of Cuba had voted and the President had approved a law signed October 9, 1922, by which the President of the Republic was empowered to issue bonds for a foreign loan in a sum not to

²⁴ *Foreign Relations*, 1922, vol. I, p. 1044.

exceed \$50,000,000 for the solution of the economic difficulties of the Cuban Government, and inquiring whether, under the provisions of Article II of the Permanent Treaty of Relations between the United States of America and Cuba dated May 22, 1922 [1903] ²⁵ this Government had any objection to make with respect to that public debt, and to this Department's reply of November 1, 1922, ²⁶ stating that subject to certain considerations set forth therein the Department had no objection to the negotiation by the Cuban Government of the loan described, I have to inform you that I am now in receipt of a letter from Messrs. J. P. Morgan and Company ²⁷ stating that the Government of the Republic of Cuba has been discussing with their representative, who recently went to Habana at the suggestion of the Cuban Government, the question of funding approximately \$9,000,000 principal amount of Cuban certificates of indebtedness which Messrs. Morgan and Company said they understand are held by contractors or their assigns. The letter of Messrs. Morgan and Company adds that these certificates of indebtedness arose out of contractual obligations assumed by the Cuban Government during the last Menocal Administration and that when the \$50,000,000 five and one-half per cent loan was issued in 1923 a certain portion thereof was set aside to liquidate certain claims against the Government, the amounts of which were then subject to determination by Commission. It appears that the actual amount of claims against the Government exceeded the amount of the loan segregated for such purpose and the excess amounts awarded were settled partly in cash and partly by the issue of these certificates of indebtedness. Messrs. Morgan and Company state that they understand the total amount of the certificates of indebtedness so issued was \$14,000,000 and each year a portion thereof has been paid off out of the ordinary tax budget, but that the Government desires to fund the amount now remaining because it is finding difficulty in taking care of the remaining certificates out of current revenue, and also that the Cuban Government contemplates that by borrowing in the form of a serial obligation payable in equal annual installments for a period of ten years, the Government will effect a saving in interest as the present certificates bear interest at the rate of six per cent per annum.

Messrs. Morgan and Company requested the Department to advise them whether it offers any objection to the proposed loan and, in reply, the Department has informed them that, in the light of the information before it, it offers no objection to this financing.

The Government of the United States, as Your Excellency is aware, has the utmost concern for the welfare of the Republic of

²⁵ *Ibid.*, 1904, p. 243.

²⁶ *Ibid.*, 1922, vol. I, p. 1047.

²⁷ Not printed.

Cuba and has, on many occasions, shown its desire to help that Government out of economic and other difficulties. It is for that reason that after a careful consideration it answered on November 1, 1922, the inquiry of the Cuban Government of October 19 [18], 1922, made pursuant to Article II of the Permanent Treaty, that the Department, in view of the information furnished by the Cuban Government, had no objection to the negotiation by the Cuban Government of the \$50,000,000 loan. This Government hoped that with the proceeds of the \$50,000,000 loan of 1923 it would be possible for the Cuban Government to liquidate its outstanding contractual obligations but, as this unfortunately has not been the case, this Government has been glad, in order to be helpful to Cuba, to offer no objection to the conversion of this public debt of \$9,000,000 in order to carry out the purposes for which it gave its consent to the \$50,000,000 loan.²⁸

Accept [etc.]

FRANK B. KELLOGG

SUGGESTION OF CUBA THAT A METEOROLOGICAL STATION BE
ERECTED ON SWAN ISLAND JOINTLY BY THE UNITED STATES,
CUBA, GREAT BRITAIN, AND MEXICO

811.0141 Sw 2/92

The Chargé in Cuba (Williamson) to the Secretary of State

No. 2316

HABANA, October 20, 1927.

[Received October 24.]

SIR: I have the honor to state, although the facts are probably already known to the Department, that, as it is understood, the United Fruit Company for many years maintained at its own expense a meteorological station at Swan Island. During the cyclone of last autumn reports coming from that station were most helpful in giving warning of the impending storm. Since then, however, the United Fruit Company has discontinued the operation of the meteorological post, so that the countries bordering upon the area contiguous to Swan Island are without the valuable assistance which reports from that Island would furnish.

This being the case, the Under Secretary for Foreign Affairs today invited me to his office and handed me a memorandum, the text of which is enclosed in copy and translation. Duplicates of the memorandum were also handed to the Chargés d'Affaires of Great Britain and Mexico, the three representatives being requested to convey the substance thereof to their respective Governments. As will be observed the memorandum suggests the appropriateness of reaching

²⁸ Telegram No. 76, July 1, 10 a. m., from the Chargé in Cuba, informed the Department that the Cuban Government had sold to J. P. Morgan & Co. \$9,000,000 of ten-year serial 5½ percent bonds (file No. 887.51/1213).

a diplomatic agreement between the Governments of the United States, Mexico, Great Britain and Cuba whereby they may reopen the meteorological station at Swan Island and share the expense of the operation thereof.

I have ascertained that the Mexican and British Chargés are forwarding copies of the memorandum to their Governments and I venture, in taking like action, to recommend the suggestion as of distinct benefit not only to areas in southern Florida but to American shipping in the Carribean Sea and the Gulf of Mexico as well.

I have [etc.]

HAROLD L. WILLIAMSON

[Enclosure—Translation ■]

The Cuban Department of State to the American Embassy

MEMORANDUM

The Government of the Republic of Cuba has been informed that the meteorological station at Swan Island has been closed, seemingly for reasons of economy.

The utility of this station, situated in the region of the Caribbean Sea where most of the cyclones form and constituting a real scientific outpost, is too well known to require a detailed exposition in this memorandum of the desirability of its maintenance.

Responding to the far-seeing principles of international utility the Government of President Machado takes pleasure in suggesting to the Governments of the three countries most interested in this project, the conclusion of a diplomatic agreement which will permit the maintenance of this station, distributing the expenses thereof equally among the four countries so directly benefited, and leaving to the Government of His Britannic Majesty the execution of the agreement.

The Government of the Republic will be very grateful to the Governments taking part in this meeting if they would examine this question carefully and submit their observations with regard to this proposal as soon as possible.

HABANA, *October 20, 1927.*

811 0141 Sw 2/92

The Secretary of State to the Chargé in Cuba (Curtis)

No. 1107

WASHINGTON, *November 18, 1927.*

SIR: The Department has received the Embassy's despatch No. 2316, dated October 20, 1927, enclosing a memorandum of the Cuban Government suggesting the installation of a meterological station on Swan

■ File translation revised.

Island, to be jointly maintained by the Governments of Cuba, Great Britain, Mexico and the United States, and, apparently installed and operated by Great Britain.

The Department was advised by the Attorney General of the United States in an opinion dated June 24, 1925, that the dominion of the United States was extended over the Swan Islands by the President, as evidenced by a certificate of Secretary of State Seward, dated February 11, 1863, and that the sovereignty of the United States attached to the said Islands as of that date.

In 1921 the Department was informed that the Government of Honduras claimed sovereignty over the Swan Islands on the ground that the Islands were originally under the old Spanish Colonial Government and were included in territory returned by England to Spain under the treaties of 1783 and 1786, which later became territory of Honduras upon its attainment of independence. The United States Government does not, however, admit the claim of the Government of Honduras.

There is enclosed a copy of the Opinion of the Attorney General, dated June 24, 1925, which you may hand to the Cuban Government, at the same time informing that Government that a reply will shortly be made to the memorandum of October 20th, 1927.

I am [etc.]

For the Secretary of State:

FRANCIS WHITE

[Enclosure]

The Attorney General (Sargent) to the Secretary of State^{29a}

WASHINGTON, June 24, 1925.

SIR: I have the honor to respond to your letter of August 21, 1924,³⁰ making reference to the opinion to the Secretary of the Navy of February 8, 1918 (31 Op. 216), with respect to the jurisdiction of the United States over the Swan Islands, situate in the Caribbean Sea, and requesting reconsideration of the subject in the light of the additional facts set forth in the memorandum enclosed with your letter.

The opinion of February 8, 1918, was based upon a statement of facts submitted by the Secretary of the Navy. It is now stated that a complete statement of the existing facts was not before the Attorney General at the time the opinion in question was rendered.

The principal questions submitted to the Attorney General by the Secretary of the Navy were:

(1) "Has the United States Government acquired sovereignty over the said islands by virtue of the Guano Island Act of August 18, 1856³¹?"

^{29a} Filed separately under file No. 811.014 Sw 2/85.

³⁰ Not printed.

³¹ 11 Stat. 119.

(2) "If such sovereignty has not been acquired by virtue of the Guano Island Act, has the United States at present the right to extend its sovereignty over the said islands?"

In reply to the first question, after stating the facts as presented to him, including the statement that those claiming under the original discoverer had furnished the bond required by the statute, the Acting Attorney General said: "It nowhere appears, however, that any executive action was taken by the President, or on his behalf, through the Secretary of State, at any time, which could be construed as an exercise of the discretion conferred upon the President by the Act of August 18, 1856, such as to amount to a declaration that the Swan Islands were considered as appertaining to the United States." The conclusion stated in that opinion was that the United States had not acquired sovereignty of any kind over said Islands.

In reply to the second question the Acting Attorney General, after reviewing the facts said: "These facts and circumstances are sufficient in my opinion to warrant the statement that no other country has any proper claim to these islands, and that the United States Government may at any time assert its sovereignty over them by appropriate action." It, therefore, appears from the opinion of February 8, 1918, that all of the conditions necessary to the assertion of sovereignty over the Swan Islands had been complied with, but the facts presented did not show that the necessary action had been taken by the President to extend sovereignty over said islands.

It now appears that the Government of Honduras is asserting claim to sovereignty over the Swan Islands, based upon the contention that the islands were originally under the old Spanish Colonial Government, and became a part of the territory of Honduras upon that country attaining its independence.

The facts relating to the discovery and attempted acquisition of the Swan Islands, as set forth in the memorandum enclosed with your letter, are as follows:

Joseph W. Fabens, under date of May 19, 1857, informed the Department of State that he had in person or by his regularly employed agents, discovered deposits of guano on certain islands in the Carribean Sea (including the Swan Islands); that he and his associates were desirous of organizing a company to bring away the guano deposits on the islands referred to and inquired concerning the steps to be taken in order that he and his associates might be entitled to occupy the islands in question. The Secretary of State, under date of May 25, 1857, requested the opinion of the Attorney General as to the proper construction to be placed upon the Act of August 18, 1856, particularly as to the time when and the extent to which alleged discoverers of guano may fairly request intervention

of the President. The Attorney General in an opinion dated June 2, 1857 (9 Opin. page 30) enumerated the facts upon the establishment of which the President might consider an island as appertaining to the United States and protect the rights of the discoverer thereof. The opinion of the Attorney General was brought to the attention of Fabens and on June 18, 1857, he and Charles Stearns transmitted to the Department the affidavits of George Valentine White, the alleged discoverer of the guano deposits in question, and Samuel E. Stearns, together with an assignment of White's interest in Swan Islands to Fabens and Charles Stearns and their associate, Duff Green, and inquiring concerning the form of the bond and the amount of security to be required under the Act of August 18, 1856.

Subsequently Joseph W. Fabens, Charles Stearns and Duff Green created a corporation under the laws of the State of New York by the name of the "Atlantic and Pacific Guano Company", in which company was merged all their right, title, and interest in and to the Swan Islands and the guano deposits thereon. There are several reports in the Department's files indicating that the company was engaged in shipping guano from the Swan Islands during the year 1858.

The Atlantic and Pacific Guano Company by deed of October 4, 1862, conveyed its interests in the islands to George I. Crocker, who, by deed dated October 6, 1862, conveyed the title thereto to the New York Guano Company, a corporation organized under the laws of the State of New York. Fabens and his wife quitclaimed their interest on November 24, 1862, to the New York Guano Company. The latter company in December, 1862, presented its bond to the Department and asked for recognition under the Act of August 18, 1856. The bond, to which no certificate of approval was attached, was withdrawn to supply that defect and was returned to the Department during the latter part of January, 1863.

On January 31, 1863, the Department received from the New York Guano Company additional affidavits, maps, and papers in support of the company's claim, including an affidavit executed December 31, 1862, by Thomas P. Morgan, stating that in August, 1858, he assisted Lieutenant George T. Sinclair, United States Navy, who was stated to have been detailed for the purpose by the Navy Department, and Thomas Walter, chemist, in making a survey of the Swan Islands and that Lieutenant Sinclair estimated the quantity of guano to be in excess of three million tons, yielding from forty to sixty-nine per cent of phosphate of lime.

Honorable William H. Seward, Secretary of State, under date of February 18, 1863, in response to a communication of February 10,

1863, from V. A. Baldwin, regarding the recognition of the claim of the New York Guano Company, stated as follows:

"I have to acknowledge the receipt of your letter of yesterday relative to the recognition of the claim of the New York Guano Company to the guano on Swan Islands and in reply to transmit herewith a certificate under the seal of the Department on the subject."

The certificate referred to, a copy of which is in the possession of the Department, reads as follows:

"To all to whom these presents shall come, Greeting:

"I certify that the New York Guano Company have filed in this Department satisfactory proof of their claim to the guano on great and little Swan Islands in the Carribean Sea as the assignees of the original discoverers; have filed the bond, and taken the steps required by the Act of Congress of the 18th of August, 1856, entitled 'An Act to authorize protection to be given to citizens of the United States who may discover deposits of guano.'

"IN TESTIMONY WHEREOF I have hereunto set my hand and caused the seal of the Department of State to be affixed at Washington, this 11th day of February in the year of our Lord eighteen hundred sixty-three."

The Department, under date of February 11, 1863, transmitted the bond of the New York Guano Company to the First Comptroller of the Treasury in order that it might be properly filed.

At the time of the rendition of the opinion of February 8, 1918, a copy of the certificate of the Secretary of State, dated February 11, 1863, above set forth, was not before the Acting Attorney General, as shown by the statement in the opinion that "It nowhere appears, however, that any executive action was taken by the President or on his behalf . . ." This assertion is confirmed by an examination of the statement of facts supplied by the Secretary of the Navy. Had a copy of that certificate been supplied to the Attorney General I have no doubt but that he would have answered the first question in the affirmative.

It is also stated in said memorandum, as showing the interpretation placed upon the certificate above referred to, that Secretary of State Seward, on March 23, 1863, wrote to Mr. U. P. Parish as follows:

In reply to your letter of the 18th instant making inquiries in relation to the evidence in this Department of the quantity and quality of guano on Swan Island in the Carribean Sea, I have to state that the proofs filed by the New York Guano Company to secure the protection of the Government for their possession of the said Island, purport to show that the quantity thereon is more than three million tons, and in regard to the quality, that samples taken from different localities yielded from forty to sixty-nine and a fraction per cent of

phosphate of lime. It is proper to say that while these proofs were considered sufficient to authorize the Government to extend the protection asked for, under the Act of August 18, 1856, the Department is in no wise responsible for their truth and correctness. There is no evidence in this Department of any adverse claim to that of the New York Guano Company to the island in question.

It is further stated that the Secretary of the Treasury, under date of February 12, 1869, issued instructions to collectors of customs directing them to enforce the provisions of the Coastwise Shipping Laws to guano islands appertaining to the United States, and enclosed therewith a list of such islands, among which appeared the Swan Islands, now under consideration. It appears, therefore, that the certificate set forth above was considered by both the Secretary of State and the Secretary of the Treasury as a sufficient proclamation of the extension of sovereignty over the Swan Islands, and that the conditions precedent prescribed by the Guano Islands Act had, in the opinion of the Secretary of State, at that time been complied with.

The Act of August 18, 1856, c. 164, 11 Stat. 119, known as the Guano Islands Act, is contained in sections 5570 to 5578 Revised Statutes. It provides the method by which jurisdiction may be acquired and the sovereignty of the United States extended over unoccupied and unclaimed islands containing guano deposits. It provides certain conditions which must be complied with by the discoverer, or those claiming through him, and when such conditions have been complied with the President may, in his discretion, consider the same "as appertaining to the United States." Section 1 of that Act (section 5570 R. S.) reads:

Whenever any citizen of the United States discovers a deposit of guano on any island, rock, or key, not within the lawful jurisdiction of any other government, and not occupied by the citizens of any other government, and takes peaceable possession thereof, and occupies the same, such island, rock, or key may, at the discretion of the President, be considered as appertaining to the United States.

The facts required by the statute to be established by the discoverer, or those claiming through him, before such person or persons may claim the protection of the United States, as set forth by Attorney General Black, in 9 Op. 30, are:

1. That a deposit of guano has been discovered upon the island by an American citizen.
2. That such island is not within the lawful jurisdiction of any other government.
3. That the island is not occupied by the citizens of any other government.
4. That the discoverer has taken and occupied peaceable possession thereof in the name of the United States.

5. That the discoverer has given notice of these facts as soon as practicable to the State Department, on his oath.

6. That the notice has been accompanied with a description of the island and its location.

7. That satisfactory evidence has been furnished to the State Department showing that the island was not taken out of the possession of any other government or people.

8. That the discoverer, his heirs, or assigns, shall give bond in such penalty as may be required by the President to deliver guano to citizens of the United States for the purpose of being used therein, and to none others, and at prices not to exceed the maximum fixed by statute.

From the facts relating to the Swan Islands now submitted, it appears that all of these conditions were complied with by the assignee of the discoverer; that an acceptable bond was given, and that the Secretary of State on February 11, 1863, certified that the New York Guano Company, claiming as the assignee of the original discoverer, had "taken the steps required by the Act of Congress of the 18th of August, 1856."

There is no provision in the Guano Islands Act requiring the President to proclaim that the conditions of the Act have been complied with, and that a certain island or islands may be "considered as appertaining to the United States". The extension of the protection of the United States Government to any particular island rests within the discretion of the President, after determining that the statutory conditions have been complied with, but evidence of the exercise of this discretion may be manifested by the announcement or certificate of the Secretary of State. *Jones v. United States*, 137 U. S. 202, 217. The Court there said:

The power conferred upon the President of the United States by section 1 of the act of Congress of 1856, to determine that a guano island shall be considered as appertaining to the United States, being a strictly executive power, affecting foreign relations, and the manner in which his determination shall be made known not having been prescribed by statute, there can be no doubt that it may be declared through the Department of State, whose acts in this regard are in legal contemplation the acts of the President.

As the determination of the questions whether or not the statutory conditions relating to the acquisition of guano islands have been complied with, and whether or not it is expedient to extend the protection of the United States government to any particular island, are matters resting within the sound discretion of the President; and as his decision properly may be announced by the Secretary of State, it is my opinion that the certificate of Secretary Seward, dated February 11, 1863, that all of the steps required by the Act of 1856 have been complied with, is "equivalent to a declaration that the President con-

sidered the island as appertaining to the United States". *Jones v. United States*, supra, pp. 222-223. As such it is conclusive, not only upon the executive officers of the Government, but upon the courts as well. *Jones v. United States*, supra, pp. 212, 221.

The fact that the Albion Chemical and Export Company, successor to the New York Guano Company, abandoned Swan Islands on February 5, 1904, and that Mr. Alonzo Adams reoccupied and took possession of the islands on February 6, 1904, does not affect the sovereignty of the United States over said islands.

Sovereignty of the United States having once been extended, no act of the tenant or licensee could deprive the United States of its dominion over said islands. *Jones v. United States*, supra, p. 224. There the court had under consideration the effect of an alleged breach of bond given under the Guano Islands Act with reference to the Navassa Island. The court said: "But, whenever the breach took place, it affected the private rights only of the delinquent and did not impair the dominion of the United States or the jurisdiction of their courts."

It is my opinion, therefore, that the dominion of the United States government was extended over the Swan Islands by the President, as evidenced by the certificate of Secretary Seward, dated February 11, 1863, and that the sovereignty of the United States attached to said islands as of that date.

Respectfully,

JNO. G. SARGENT

CZECHOSLOVAKIA

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND CZECHOSLOVAKIA¹

711.60 f 2/19a : Telegram

The Secretary of State to the Chargé in Czechoslovakia (Gittings)

[Paraphrase]

WASHINGTON, *March 22, 1927—4 p. m.*

8. Reference is made to the Department's instruction No. 131 of August 3, 1923, and to the Legation's telegram 39 of August 30, 1923, 7 p. m.,² and to the Legation's despatch No. 1136 of November 12, 1926.³

The American Government would be glad to enter at this time upon the negotiation of a treaty of amity, commerce and consular relations with Czechoslovakia. This Government strongly believes that a permanent treaty should be concluded. You are directed to ascertain and inform the Department by cable whether the Czechoslovakian Government would now enter upon negotiations for a treaty of this kind, which would supersede the exchange of notes of December 5, 1924.⁴ Should it be agreeable to the Czechoslovakian Government to commence negotiations in the near future, instructions together with a draft of treaty will be forwarded to the Legation at once.

The Department's delay in proposing to undertake negotiations has been caused by its desire to formulate a uniform most-favored-nation clause to deal with indirect trade, and systems of licenses and of quotas or rations in negotiations with several countries. Such a provision as has been formulated for use in future treaties is based upon the second paragraph of the exchange of notes between the United States and Czechoslovakia of October 29, 1923.⁵ The remainder of the draft would be substantially similar to the treaty between the United States and Hungary (Treaty Series No. 748).⁶

KELLOGG

¹ For previous correspondence on this subject, see *Foreign Relations*, 1924, vol. I, pp. 615 ff.

² *Foreign Relations*, 1923, vol. I, pp. 866, 867.

³ Not printed.

⁴ *Foreign Relations*, 1924, vol. I, p. 616.

⁵ *Ibid.*, 1923, vol. I, p. 873.

⁶ *Ibid.*, 1925, vol. II, p. 341.

711.60 f 2/20 : Telegram

The Chargé in Czechoslovakia (Gittings) to the Secretary of State

PRAGUE, April 1, 1927—9 a. m.

[Received April 1—6:57 a. m.]

12. Department's telegram 8, March 22, 4 p. m. Am informed that Czechoslovakia is willing to reopen negotiations. Officials state that upon initiative of Czechoslovak Minister at Washington, they already have prepared a draft which is along the lines of the American-German treaty.⁷ Official note promised presently.

GITTINGS

711.60 f 2/20 : Telegram

The Secretary of State to the Chargé in Czechoslovakia (Gittings)

[Paraphrase]

WASHINGTON, April 1, 1927—6 p. m.

9. With reference to your telegram 12 of April 1, 9 a. m. It is gratifying to this Government to learn that Czechoslovakia has agreed to the opening of negotiations for a treaty of friendship, commerce and consular rights.

It is believed that uniformity in the treaties of the United States is of importance and that this can best be attained by beginning negotiations on a draft to be submitted by this Government. The Department wishes you to make an effort to obtain the consent of the Czechoslovakian Government to this procedure. If this is agreed to, a draft of such a treaty will be sent to you immediately.

KELLOGG

711.60 f 2/21 : Telegram

The Minister in Czechoslovakia (Einstein) to the Secretary of State

PRAGUE, April 18, 1927—1 p. m.

[Received April 18—8:40 a. m.]

15. Your number 9, April 2 [1], 6 p. m. Note from the Foreign Office states that Ministry of Foreign Affairs will be glad to negotiate a treaty of amity, commerce and consular rights, and to learn our point of view regarding this.

EINSTEIN

⁷Treaty of friendship, commerce and consular rights, signed Dec. 8, 1923; *Foreign Relations*, 1923, vol. II, p. 29.

711.60 f 2/22

The Minister in Czechoslovakia (Einstein) to the Secretary of State

No. 1265

PRAGUE, April 20, 1927.

[Received April 30.]

SIR: I have the honor to refer to the Department's telegraphic instruction No. 8 of March 22, 4 p. m., and to subsequent correspondence regarding the desired conclusion between the United States and Czechoslovakia of a treaty of amity, commerce and consular rights.

In accord with this Legation's telegram No. 12 of April 1, 9 a. m., the Czechoslovak government expressed its willingness to enter into fresh negotiations. A copy of the pertinent Foreign Office note, of April 2, 1927, is enclosed.

Pursuant to the Department's telegraphic instruction No. 9 of April 2 [1], 6 p. m., the Ministry for Foreign Affairs was approached to ascertain whether the Czechoslovak government would be willing to begin negotiations on a draft furnished by the Department. To this the Ministry agreed, as indicated by this mission's telegram No. 15, April 18, 1 p. m., which the enclosed translation of a Foreign Office note of April 12, 1927 confirms.

I have [etc.]

LEWIS EINSTEIN

[Enclosure 1]

The Czechoslovak Ministry of Foreign Affairs to the American Legation

No. 43.834/IV-5/27

PRAGUE, April 2, 1927.

In reply to the Note of the Chargé d'Affaires ad interim No. 958 of March 25, 1927^s concerning the conclusion of a treaty of friendship, commerce and consular rights, the Ministry of Foreign Affairs with high appreciation of the purpose involved has the honor to make known that it has already taken all the necessary steps for preparing a basis for negotiations bearing on previous propositions which were transmitted during March of last year by the Czechoslovak Minister at Washington.

The said propositions looked to the conclusion of a treaty on the model of the Treaty of Commerce concluded on December 8, 1923 between the United States and Germany.

If the Legation should desire to complete or modify this project the Ministry of Foreign Affairs would appreciate learning its point of view thereon in order that pertinent supplements or modifications may be considered.

^s Not printed.

The Ministry of Foreign Affairs avails itself of this occasion to renew to the Legation of the United States of America the assurances of its high consideration.

[Enclosure 2]

The Czechoslovak Ministry of Foreign Affairs to the American Legation

No. 49.238/IV-5/27

PRAGUE, April 12, 1927.

In reply to the note of the Chargé d'Affaires, No. 965 of April 5, 1927⁹ concerning the conclusion of a treaty of friendship, commerce and consular rights, the Ministry of Foreign Affairs has the honor to make known that, since it agrees in principle with the intention of the Government of the United States of America to commence negotiations on the aforementioned treaty, it will be glad to learn the point of view of the American Government on this subject.

The Ministry avails itself of this occasion to renew to the Legation of the United States of America the assurances of its high consideration.

711.60 f 2/21

The Secretary of State to the Minister in Czechoslovakia (Einstein)

No. 453

WASHINGTON, May 5, 1927.

SIR: By your telegram No. 15 of April 18, 1927, 1 p. m., replying to the Department's telegram No. 9 of April 2 [1], 1927, 6 p. m., you reported that the Government of Czechoslovakia accepted the proposal of this Government to enter into the negotiation of a Treaty of Friendship, Commerce and Consular Rights on the basis of a draft to be submitted by this Government.

There is enclosed herewith a draft of a treaty of friendship, commerce and consular rights¹⁰ for submission to the Government of Czechoslovakia through your Legation. An additional copy is also enclosed for your Legation.

The following statement is designed to make clear the position of this Government concerning the general features of the treaty, and respecting the various provisions thereof.

The Treaty is designed to promote friendly intercourse between the peoples of the United States and Czechoslovakia, through provisions advantageous to both. It may be said with entire candor that this treaty embodies no attempt whatever to attain by sharp

⁹ Not printed.

¹⁰ Not printed. For the tenor of the draft treaty, see the Department's telegram No. 8, Mar. 22, 1927, 4 p. m., p. 539.

bargaining undue advantages over a friendly State. The draft contains in certain articles provisions which in their practical operation ought to be deemed of special advantage to a foreign contracting party such as Czechoslovakia. These advantages are incorporated in the treaty because they are deemed to promote justice as between the peoples of friendly States. In a word, through the present draft, it is sought to lay the foundation for a comprehensive arrangement responsive to the exacting requirements of modern States. To that end, the several articles are expressed in terms which definitely and clearly set forth what is desired. It is sought by this means to avoid the danger of conflicting interpretations. The terms and phrases used are not always those which have been employed in treaties of the United States. Those utilized will, it is hoped, add to the clearness of the document.

This Government is desirous of expediting the conduct of negotiations as much as is consistent with devoting a proper consideration to the subject matter with a view to making as much progress as possible before the summer vacations begin. The Department would like to submit the signed treaty to the Senate for its advice and consent to ratification at its session which will convene in December next.

Please inform the Department by telegraph of the date on which you submit the draft to the Foreign Office.

I am [etc.]

FRANK B. KELLOGG

711.60 f 2/23 : Telegram

The Minister in Czechoslovakia (Einstein) to the Secretary of State

PRAGUE, June 3, 1927—4 p. m.

[Received June 3—1:35 p. m.]

22. Your 453, May 5th. Treaty draft submitted today to Foreign Office.

EINSTEIN

711.60 f 2/24

The Minister in Czechoslovakia (Einstein) to the Secretary of State

No. 1311

PRAGUE, June 4, 1927.

[Received June 28.]

SIR: I have the honor to enclose herewith the copy of the Note¹¹ containing the draft of the Treaty of Friendship, Commerce and Con-

¹¹ Not printed.

sular Rights submitted to the Czechoslovak Foreign Office. The Department will observe that it follows substantially the text of the explanation contained in its Instruction No. 453 of the 5th ultimo, omitting from this only such passages as did not seem to me conducive to its negotiation and which I presume were intended for my personal information.

Although I believe that Dr. Benes is sincerely desirous of signing a treaty with the United States and will expedite its negotiation to the best of his ability, I would not like the Department to be unduly hopeful as to any early date for its termination. The Czechoslovak internal administration has inherited a very cumbersome structure from the Austrian bureaucracy . . . A treaty of this kind, embracing many different subjects, will undoubtedly call for very critical examination on the part of the Ministries of Commerce, War, Social Welfare, Finance and Justice. I have already had occasion to note the meticulous delay in negotiating a simple treaty for extradition with officials from the Department of Justice.¹² While I will endeavor to press for the negotiation of the present treaty I fear I can offer little hope for any substantial progress before a considerable period of time. . . .¹³

I have [etc.]

LEWIS EINSTEIN

¹² Treaty of July 2, 1925; *Foreign Relations*, 1925, vol. II, p. 32.

¹³ Further negotiations did not result in the signing of a treaty.

DOMINICAN REPUBLIC

PROLONGATION OF THE PRESIDENTIAL TERM FROM FOUR YEARS TO SIX YEARS

839.00/3035 : Telegram

*The Minister in the Dominican Republic (Young) to the Secretary
of State*

[Paraphrase]

SANTO DOMINGO, *February 28, 1927—5 p. m.*

[Received 7:15 p. m.]

20. President Vasquez is considering plan for lengthening his term of office to six years and Senator Alfonseca¹ is supporting the project. As I am without instructions from the Department I shall limit my action to informal representations making our attitude clear but not committing us thereby to a position which we might not be able to maintain.

YOUNG

839.00/3035 : Telegram

*The Acting Secretary of State to the Minister in the Dominican
Republic (Young)*

[Paraphrase]

WASHINGTON, *March 3, 1927—11 a. m.*

10. Your No. 20, February 28, 5 p. m. Department agrees with you that for the present you should continue your informal representations based on the stipulations and spirit of Plan of Evacuation of 1922.² Keep Department informed by telegraph of future developments.

GREW

839.00/3038

*The Minister in the Dominican Republic (Young) to the Secretary
of State*

No. 419

SANTO DOMINGO, *March 8, 1927.*

[Received March 15.]

SIR: With reference to the Legation's telegram No. 22 of this date^{*} regarding the question of the length of the present presidential

¹ Leader of the Partido Nacional, which united with the Partido Progresista in 1924 to elect President Vasquez; see *Foreign Relations*, 1924, vol. I, p. 618 ff.

² *Foreign Relations*, 1922, vol. II, p. 33.

^{*} Not printed.

period, I have the honor to report that I discussed the matter at some length this morning with the President. During the course of the conversation, I reviewed the reasons which would seem to make any prolongation of the term both improper and undesirable.

The President listened courteously and attentively to my informal representations and then set forth his own attitude and the situation as it appeared to him. In brief, the President's statements were as follows:—

(1) That he has no desire to retain office merely in order longer to enjoy the power and authority which pertain to the presidency.

(2) That he realizes fully that some of those who are supporting the six year term proposal are materially influenced by their own personal interests . . .

(3) That unless there appears a well defined sentiment on the part of "non-political interests" in support of the prolongation of his term, he will leave office at the expiration of four years.

(4) That the country has undeniably made much progress toward political and economic stability under his administration and that he desires only to see a continuation of this progress; that his own future is a matter of small importance in comparison with these other considerations.

I gathered the clear impression during our conversation that the President is personally not very anxious to remain in office after July, 1928, but that heavy pressure has been brought to bear upon him by different groups to continue in power until 1930. Based on present information, it is my opinion that unless we make formal and very strong representations, the President's final decision will be determined largely by the attitude of business and other neutral interests and elements.

Should we make strong representations and succeed in forcing the abandonment of the six year term idea, we would then be held to be responsible . . . for any evils resulting to the country through the election of Alfonseca. I venture to suggest, after very close consideration of the question in its varying aspects, that it would seem to be the wise and proper policy for our Government clearly and definitely to discourage the six year term proposal as not being in harmony with the Plan of Evacuacion, the understanding had by all interested parties at the time of the elections in 1924, and the formal statement of the Dominican Government itself as contained in the note from the Foreign Office to the Legation. I believe it equally desirable, however, that this attitude on our part be not translated into formal notes of demand and that our action be limited to friendly advice and counsel.

I have [etc.]

EVAN E. YOUNG

889.00/3045 : Telegram

The Minister in the Dominican Republic (Young) to the Secretary of State

[Paraphrase]

SANTO DOMINGO, March 31, 1927—5 p. m.

[Received 9:20 p. m.]

29. Probable that resolution expressing opinion that Presidential period is for six years will be introduced in Congress within few days, and adoption expected. Little question now but that President Vasquez desires and intends to remain in office until 1930 if possible. Only certain deterrent, seemingly, would be strong official representations on part of our Government, which I do not advise. If our insistence were successful that President Vasquez leave office in 1928, end of four-year term, probability is that he would be succeeded by Senator Alfonso, whose ability to maintain political stability is seriously open to question.

I have most earnestly and carefully considered all the many factors involved, and advise that Dominican Minister in Washington be called to Department and in informal interview have impressed on him the possible serious consequences to the country if armed opposition were incited from any arbitrary prolongation of Presidential term or through choosing as a successor to the Presidency someone in whom neither majority of the public nor the leaders of President's own party appear to have confidence.

In absence of any official interference from us, both the power and the responsibility rest squarely upon President Vasquez, and I believe that effect here would be helpful if weight of this responsibility be informally but earnestly impressed on Dominican Minister.

YOUNG

889.00/3045 : Telegram

The Secretary of State to the Minister in the Dominican Republic (Young)

[Paraphrase]

WASHINGTON, April 2, 1927—6 p. m.

13. Your No. 29, March 31, 5 p. m. Department prefers not to convey its views to President Vasquez through Dominican Minister here, as Señor Morales has shown himself, in informal conversations, so strongly in favor of the six-year Presidential term that Department feels it possible that literal expression of its views would not be reflected in transmission.

As the matter is considered to be a question of Dominican domestic politics to be settled by Dominican people themselves, the Department does not desire to make any official representations; however, you are authorized to express orally and informally to President Vasquez your views on possible serious consequences to the Republic that might arise from any arbitrary prolongation of the Presidential term or through choice as his successor of anyone in whom majority of Dominican people do not have confidence. At the same time, you should impress on him that responsibility for deciding course he is to follow rests solely upon him.

KELLOGG

839.00/3049

The Minister in the Dominican Republic (Young) to the Secretary of State

No. 439

SANTO DOMINGO, April 12, 1927.

[Received April 20.]

SIR: Adverting to my telegrams No. 32 and 33, of April 8, 1927,⁴ I have the honor to submit the following report with respect to the present status of the prolongation of the presidential period.

As has previously been reported to the Department it was the original intention of those leaders of the President's party who favor its prolongation that the extension affect only the terms of office of the President and Senators. Upon further study of the question it was found however that such action would still render necessary the election in 1928 of a Vice-President and the Deputies. The terms of office of these officials would, of course, be limited to four years, and thus the country would be compelled to hold general elections for the President and Senators in 1930 and for the Vice-President and Deputies in 1928, 1932, etc.

The new program, to which the President has not yet definitely committed himself, is as follows: (a) The enactment by the Congress of a resolution expressing its understanding that the President and Senators were actually elected under the Constitution of 1908, and therefore hold office for a period of six years, (b) That a National (Constituent) Assembly be elected on the 28th day following the adoption of the resolution, (c) That the National Assembly meet in the city of Santo Domingo on the 10th day following the election of the members thereof, (d) That the National Assembly accept or reject the following suggested reform and modification of the Constitution: "In order that the elections for elective offices may be held

⁴ Neither printed.

on the same day and at one general election the period of office of the present incumbents in the offices of Vice-President of the Republic, members of the Chamber of Deputies, the Governors of Provinces, Regidores and Sindicos, shall be prolonged until August 16, 1930."

Reliable information in possession of the Legation is to the effect that in the opinion of those who are backing the six year term for the President, the new program is likely to meet with less resistance on the part of the opposition—at least insofar as the Progresista members of Congress are concerned.

The Legation, in accordance with the Department's telegraphic instruction of April 2, 1927, is carefully and scrupulously refraining from taking any action with respect to the matter which could be in any way interpreted as an interference on our part with regard to the settlement of this important question. I have taken occasion, however, to express to President Vasquez my own views regarding the possible serious consequences which might ensue as the result either of the prolongation of his term or the selection as his successor of any one who did not command the confidence of the majority of the public.

In conversation with me yesterday the President stated that he had not yet committed himself to the prolongation of his term, and that he wanted to be able to feel when he left office that he had given the country a good administration, and that he had at all times played fair with the people. He seemed to feel very confident that no disturbance to the peace of the country would follow the adoption and carrying out of the new program, but he seemed to be considerably concerned with regard to the "morals" or "ethics" of the question.

On the morning of the 8th I had a long conversation, entirely informal and personal, with the Vice-President regarding the matter. As I reported to the Department in my telegram No. 33, of April 8, 1927, the Vice-President expressed very strong opposition to the new program and said that it would unquestionably result in a revolution. He added that unless the Government of the United States took such action as it might find necessary to force the abandonment of the proposal, he would proceed to Washington and make a personal appeal to the Department. I discreetly discouraged him in this intention and stated that the Department was kept fully informed at all times of the political situation here and of all developments, and I added very frankly, though in a friendly manner, that I felt very certain that no useful purpose could be achieved through a visit on his part to Washington. Mr. Valesquez [*Velasquez*] then inquired whether in my opinion the United States would be likely to intervene to the extent necessary to prevent the prolongation. I said in reply that as he was well aware it was the policy of our Government not to intervene in political matters unless such action was made mandatory upon the Government

by local conditions in order to accord protection to American lives and property. The Vice-President then inquired if he might send me unofficially and informally a memorandum setting forth his point of view in regard to the proposed prolongation, to which I said that I should be very glad to receive it, provided it was understood that the memorandum possessed no official character and was sent to me purely for my personal information. The memorandum has been received and a translation thereof is enclosed herewith.⁵

On the morning of the 9th inst. I had a lengthy and confidential conversation with Mr. Francisco Peynado. After a careful analysis of the legal points involved in the new program, I elicited from Mr. Peynado a frank expression of his views. In common with many other Dominicans of the better class, men who are conversant with all phases of the political situation but who are not actively participating in politics at the present time, he regrets that the President is considering accepting a prolongation of his term of office. He feels that General Vasquez has given the country an especially good administration and that should he leave office at the end of the four year period, in the meantime continuing his efficient administration of the country, he would be entitled to go down in history as one of the really great Presidents of the Dominican Republic and as one of the outstanding figures of his day in Latin America. He expressed the hope that our Government would not intervene with respect to the adjustment of the pending question, leaving the Dominican people free to settle it themselves. Mr. Peynado stated that he both hoped and believed that no disturbance to the peace of the country would result should the proposed program become effective. The greatest danger, he thought, lay in the possibility of the death of President Vasquez, either natural or by violent means, while in office, and added that should this occur, it would probably be followed by the assassination of the Vice-President. As to the choice between General Vasquez as President for six years, or for four years and followed by Alfonseca, he said that he greatly preferred the former. Mr. Peynado gave me clearly the impression that while from the moral standpoint he would be sorry to see the President accept any prolongation of his term, he nevertheless felt that such a course of action would be preferable to the election in 1928 of Alfonseca, who neither enjoyed the confidence of the country nor possessed the ability successfully to control his own political party. Mr. Peynado expressed his very high appreciation, "as a patriotic Dominican", of the attitude of the United States towards Dominican matters since the withdrawal of the forces of occupation and commented somewhat at length and favorably upon the efforts and the evident desire of the Legation to

⁵ Not printed.

be of assistance to the Government and the Dominican people while at the same time carefully refraining from intervening in domestic questions.

Last evening the Legation received information to the effect that the resolution now pending in the Dominican Congress would be so changed as to make it impossible for the President to be eligible for reelection after completion of the six year term. One objection raised to the new program by the Opposition has been that the Constitution of 1908 did not prohibit the reelection of the President of the Republic, and that accordingly if the term of office of President Vasquez is prolonged under the contention that he was elected under the 1908 Constitution, there would be nothing to prevent his being a candidate in the 1930 election. The proposed amendment to the pending resolution is designed to remove this objection.

The foregoing report has been drafted somewhat hastily in order to permit of its being forwarded by the pouch today. The Legation will continue to maintain close touch with the situation, and the Department will be kept fully informed of all developments.

I have [etc.]

EVAN E. YOUNG

839.00/3053 : Telegram

The Minister in the Dominican Republic (Young) to the Secretary of State

SANTO DOMINGO, May 2, 1927—4 p. m.

[Received May 5—10:37 a. m.]

39. Prolongation law passed Congress Saturday and was approved by the President this morning. Members of Constituent Assembly are to be elected on the thirtieth day following promulgation of the law, and the Assembly to meet on the tenth day after the election. Considerable excitement but no disorders. Full report by mail.^a

YOUNG

839.00/3091

Memorandum by the Chief of the Division of Latin American Affairs (Morgan) of a Conversation with Señor Federico Velasquez y Hernandez, Vice President of the Dominican Republic

[WASHINGTON,] August 26, 1927.

The Vice President said that he desired to discuss with me briefly the question of the prolongation of the President's term and the

^a Despatch No. 459, May 9, 1927; not printed.

political situation in Santo Domingo. He went on to say that there was some resentment over the fact that President Vasquez had extended his term for two years, which was contrary to the Constitution and to the Agreement of Evacuation with the United States. This was an arbitrary infringement of the rights of the Dominican people and the Vice President wondered why the United States had not protested against it. Moreover, since he feared that the President's action would lead to political disturbances in the country he wanted to ascertain what attitude the Department of State would take in case of such eventualities.

I replied by explaining that the President's action appeared to have been based on an interpretation of the circumstances of his election, which declared that the Constitution of 1924 was not in effect at the time, and that President Vasquez was therefore elected under the previous Constitution and thus for a term of six years. It did not involve any change in the present Constitution, that of 1924, which was unquestionably now in effect. This action appeared to have been taken with the full consent of the Dominican people as manifested by their representatives in Congress, and therefore the Department had not seen any sound reason for protesting. I said that the Department had informed President Vasquez, through the American Minister, that if the prolongation was decided upon he must himself bear the full responsibility for whatever results might follow, especially in the event that there should be any disturbances; that the Department had neither recommended this action nor protested against it.

I went on to say that the Department did not desire to interfere any more than was absolutely necessary in the affairs of Santo Domingo. This question of the interpretation of the term for which the President was elected, i. e. whether for four or six years, seemed to us a matter of purely domestic concern which could and should be decided by the Dominican people themselves. I felt that many of those who from dissatisfaction with the result arrived at pretended to feel that the Department of State should have taken some steps in the matter would be the first to protest if the Department did go out of its way to interfere or to try to decide such questions for the Dominican people. I pointed out that during the military government from 1916 until the Evacuation the Department had of course been compelled to manage the internal affairs of the Dominican Republic and assume responsibility therefor, but after we had, to our great satisfaction, been able to turn the Government over again to the Dominican people we had not desired to dictate or even suggest the manner in which they should regulate their internal affairs and had no intention of assuming any responsibility therefor. In some financial matters, I added, we felt obliged, as Mr. Velasquez understood, to continue to exercise a slight control.

The Vice President went on to say that he quite understood our attitude, which was highly laudable. Nevertheless, President Vasquez' action in prolonging his term had been both high-handed and illegal and Mr. Velasquez was convinced that the Dominican people would be justified in taking the remedy in their own hands and he felt sure that political disturbances, with possibly a revolution, would follow. In that case he said he thought that the Department of State should make its position clear. If the Department were not prepared to interfere in the internal affairs of the Republic it should not interfere if the Dominican people found it necessary, in order to prevent abuses by the party in power, to take the remedy into their own hands. That is, the Department should not by abstaining from action permit the rights of the people to be infringed, and then by forceful intervention prevent the people from asserting their rights.

I informed the Vice President that the Department would view with the greatest regret any political disturbances in the Dominican Republic. There seemed to be no just reason or grounds for it; certainly the fact that President Vasquez' term had been extended for two years, with the consent of Congress, would not justify a resort to revolution, with all the horrors and disasters to the country which would undoubtedly follow. This regardless of whether the act was strictly legal or constitutional. Certainly there were arguments both ways. In answer to Mr. Velasquez question as to what I personally thought of these arguments I replied that I had studied the arguments which had been advanced in favor of interpreting the President's election as being based on the Constitution of 1908 rather than of 1924, and I must say, speaking personally and quite frankly, that in my opinion these arguments were weak; nevertheless, this was not a question upon which the Department had felt called upon to give an opinion. These arguments had been acceptable to the Dominican Congress, and the Department was prepared to accept that decision as showing the opinion and desire of the Dominican people. There had been no question of altering the term as provided in the Constitution of 1924. The President elected in 1930 would of course be elected for a term of four years.

The Vice President said there was no reason why President Vasquez should not continue to prolong his term, or why the next President should not prolong his term to six or eight years. To this I replied that they would have to find some new argument for doing so; I could not say what they might possibly try to do, and therefore could not give an opinion on that.

In conclusion, in answer to the Vice President's question as to what the attitude of the Department would be in case the Dominican people, as he expressed it, "took the remedy in their own hands" by

causing political disturbances in an effort to overthrow the Government, I said the Department would view this with the greatest regret, and did not consider that the present situation justified such action. What attitude the Department would assume, or what action it would take in such a case would obviously depend upon the circumstances at the time and neither I nor anybody else could forecast what the Department would or would not do. I asked the Vice President whether he expected any difficulties in the immediate future, to which he replied that he did not; that the Dominican people were quite prepared to let President Vasquez finish his four years term; but that when he attempted to continue in office for two years more there would be serious trouble.

[STOKELEY W.] MORGAN

BOUNDARY DISPUTE WITH HAITI

(See volume I, pages 345 ff.)

EGYPT

CORRESPONDENCE RELATING TO EQUALITY OF REPRESENTATION AS BETWEEN THE CAPITULATORY POWERS ON THE EGYPTIAN MIXED COURTS

883.0513/86 : Telegram

The Minister in Egypt (Howell) to the Secretary of State

CAIRO, April 9, 1926—11 a. m.

[Received April 9—7:15 a. m.]

12. In my despatch 783, March 26,¹ [which] probably has not yet arrived, I pointed out British judge appointed adviser foreign affairs thus making vacant place on Mixed Court. Cairo now proposed to appoint another British subject in his stead. It would appear such action is not in conformity with the equal representation as provided by [agreement?] between the powers and the Egyptian Government at the time of establishing mixed courts. Is it desirable that any representations be made? See enclosure to my despatch 760.¹

HOWELL

883.0513/88

The Minister in Egypt (Howell) to the Secretary of State

No. 793

CAIRO, April 9, 1926.

[Received May 7.]

SIR: Adverting to my telegram No. 12, of April 9, 11 a. m., and apropos of same, I have the honor to herewith enclose a copy of a note which I sent to the Ministry for Foreign Affairs, in which I called attention to the agreement entered into between the Egyptian Government and the Great Powers when the Mixed Courts were established, as it applied to the representation of each in the Courts.

I have found the appointment was about to be made, indeed, it was said likely to be announced any moment, and I desired at least in advance of the appointment to let them know that we are taking note of the proposal in question and recognize it as out of conformity with the agreement.

I have [etc.]

J. MORTON HOWELL

¹ Not printed.

[Enclosure]

The American Minister (Howell) to the Egyptian Minister for Foreign Affairs (Ziwar)

No. 339

CAIRO, April 9, 1926.

EXCELLENCY: I have the honor to refer to the changes that have recently taken place in the appointment of advisers to the various Ministries. It is noted among these changes that Judge Booth, a British subject, has been appointed Adviser to the Ministry for Foreign Affairs, making vacant the place which he has hitherto held as Judge of the Mixed Court of Cairo. I am creditably informed that it is proposed to fill the vacancy thus caused in the Mixed Court by the appointment of Judge Booth to the position above noted, by another Britisher. I respectfully desire to call Your Excellency's attention to the fact that this would seem to be out of conformity with the agreement entered into between the Great Powers and the Egyptian Government when these courts were established. You will permit me to call Your Excellency's attention to the letter of Her Britannic Majesty's representative in Constantinople at the time the Courts were established, Sir Henry Elliot, the pertinent points of which, touching upon this subject, read as follows:²

"The question which was raised respecting the nationality of the judges to be named for the new tribunals received the attention it deserved from Her Majesty's Government who concur in the view of the Khedive as to the importance of avoiding giving any preponderance to one nationality over another in the selection of the judges either in constituting the tribunal or in supplying the vacancies that may from time to time occur among them.

"The point was held to be so essential, not only for the interests of British litigants, but also to secure the new tribunals from any suspicion of partiality, that, to prevent any question of the kind from hereafter arising Her Majesty's Government have instructed me to intimate that their final acceptance was dependent upon the maintenance of this principle."

I raise this question now that Your Excellency may be apprised of our taking note of the fact that such action is recognized as out of conformity with the agreement above mentioned.

I seize this opportunity [etc.]

J. MORTON HOWELL

883.0513/89

The Minister in Egypt (Howell) to the Secretary of State

No. 824

CAIRO, May 17, 1926.

[Received June 14.]

SIR: I have the honor to refer to my Despatch No. 793, of April 9, 1926, in which I called the attention of the Department to the

² See *Foreign Relations*, 1873, vol. II, p. 1118.

agreement entered into between the Egyptian Government and the Great Powers when the Mixed Courts were established, as it applied to the representatives of each in the courts.

I am just now in receipt of the reply to my Note No. 339, of April 9, 1926, addressed to His Excellency Ahmed Ziwar Pasha, Minister for Foreign Affairs, a copy and translation of which I enclose herewith, which is self explanatory.

I may say in this connection that I have sent a copy of this note from the Foreign Office to Judge Jasper Y. Brinton, of the Mixed Court of Appeals, at Alexandria, and likewise a copy to Judge Henry and Judge Crabitès, of the Mixed Courts of First Instance at Alexandria and Cairo, respectively, for such comments or observations with respect thereto as they may desire to make. I shall forward to the Department in due course a copy of their replies touching upon this question.

I have [etc.]

J. MORTON HOWELL

[Enclosure—Translation]

The Egyptian Ministry for Foreign Affairs to the American Legation

No. 29.9/2(1065)

CAIRO, May 16, 1926.

By letter dated April 9, 1926, No. 339, the American Legation saw fit to draw the attention of this Ministry to the opportunity of replacing by an American Judge Mr. Booth, Judge in the Mixed Courts, who has been appointed Counsellor to the Ministry for Foreign Affairs.

In reply the Ministry for Foreign Affairs has the honor to point out in the first place that the principle announced in the letter of Sir Henry Elliot was never accepted by the Egyptian Government. This letter cannot be considered as a convention between the Britannic and Egyptian Governments, but only as a wish of the Britannic Government upon which it did not insist at the moment of a definite accord.

The Courts of the Reform are Egyptian courts and freedom of appointment and of choice of judges is not limited except by the conditions imposed in Article 5 of the Regulation of the Judicial Organization.³

If the Egyptian Government has agreed with certain Powers to choose among their national[s] a certain number of judges, its right of free choice for the supplemental seats has been affirmed many times.

In fact, by Convention, the Great Capitulatory Powers, originally seven and now four (France, Great Britain, Italy and the United States of America) have the right each one to the position of Counsellor to the Court and the Egyptian Government accorded them later also

³ *Foreign Relations*, 1873, vol. II, p. 1112.

the positions of Judge of First Instance. Also, and in certain cases by analogy, it has admitted to other Capitulatory Powers the right to positions either a Counsellor and a Judge, or two Judges of First Instance.

Beyond this minimum the Egyptian Government has always reserved to itself the right to choose freely among all the Capitulatory Powers, and even non-Capitulatory Powers, for the other positions of Judges created or to be created in the Court of Appeal and in the Courts of First Instance. This has been recognized in various correspondence exchanged between Egypt and the Powers. Thus at the beginning of the "Reforme" there were three Dutchmen and three Belgians in the Courts of First Instance, and later two Swiss Judges were appointed, although Switzerland is not a Capitulatory country.

Then, after the beginning of the War, Germany and Austria lost the rights belonging to them by treaty, the Egyptian Government gave the four posts thus becoming vacant in the First Instance to two Englishmen (one of whom was the predecessor of Mr. Booth), a Frenchman and an Italian. The Government of the United States must have recognized the justice of what precedes since at that moment it did not formulate any protest, and in 1916 it renewed the mandate of Mixed Tribunals without making objection to the action of the Egyptian Government.

The Ministry for Foreign Affairs seizes the occasion to renew to the American Legation the assurances of its high consideration.

883.0513/88

The Secretary of State to the Minister in Egypt (Howell)

No. 271

WASHINGTON, June 8, 1926.

SIR: The Department has received your telegram No. 12 and your despatch No. 793, both dated April 9, 1926, with respect to the recent resignation of Mr. G. A. W. Booth, a British Judge of the Cairo Mixed Court of First Instance, to accept the position of Royal Counsellor for the Egyptian Ministry for Foreign Affairs and the proposed appointment of a British subject to fill the position on the Mixed Court Bench thus made vacant. Acknowledgment is made also of the receipt of your despatch No. 783 of March 26, 1926,⁴ referred to in your telegram of April 9, reporting in greater detail with respect to this matter. You were correct in the assumption, expressed in your telegram of April 9, that this despatch had not been received by the Department.

In your telegram No. 12 of April 9 you expressed the opinion that, should a British subject be appointed to succeed Judge Booth,

⁴ Not printed.

such action would constitute a departure from the principle of equal representation as between the Powers in the appointment of the foreign judges chosen to serve on the Egyptian Mixed Courts, and you inquired whether the Department desired you to make any representations in the matter. With your despatch No. 793 of the same date you enclose a copy of a note addressed by you to the Egyptian Foreign Office wherein you represent that the contemplated action in question "would appear to be out of conformity with the agreement entered into between the Great Powers and the Egyptian Government when these courts were established."

The Department cannot understand why, having solicited its instructions, you proceeded, at the same time and without awaiting the receipt of these instructions, to make formal representations in this matter to the Egyptian Government.

With respect to the nature of the representations made in your note of April 9 to the Egyptian Foreign Office, it may be mentioned that the Department's records indicate that Judge Booth was appointed to the Cairo Mixed Bench on January 12, 1918, to replace Judge W. H. Hill, also a British subject, who on December 31, 1917, had been appointed Counsellor of the Native Court of Appeals. It appears further that, at the time of Judge Booth's appointment, three other British subjects held judgeships on the Egyptian Mixed Courts of First Instance, i. e. Judges R. A. Vaux and G. H. Carey at Alexandria and Judge E. Bateson at Cairo. Judge Vaux has been succeeded in turn by Judges J. H. Scott and A. S. Preston, Judge Carey by Judge W. H. H. Thorne, and Judge Bateson by Judge H. Holmes. All of these later appointees were British subjects. These appointments might be considered as constituting precedents, not, however, necessarily closed to objection, for the proposed appointment of a British subject to succeed Judge Booth. It may be noted in this connection also that since the date of the appointment of Judge Booth, at which time, as already noted, four British judges were serving on the Mixed Courts of First Instance, the United States Government has on four occasions agreed to the prolongation of the Egyptian Mixed Courts as constituted.

The Department appreciates that, since the replacement of the German and Austrian judges who before the war served on the Egyptian Mixed Courts, the principle of equal representation as between the Powers in the appointment of foreign judges chosen to serve on those courts has not been maintained. It has noted that the pre-war representation of the principal powers, i. e., three judges each, has been increased in the case of Great Britain to six and in the cases of France and Italy to four judges. Its records do not indicate that it was consulted with respect to these increases, and

it does not consider that, should circumstances or policy render such action desirable, it would be debarred by its previous silence from formally taking exception to the present disproportionate representation. It would, however, have preferred that this question should not have been raised by you at the present time with the Egyptian Government, and it would not wish you to take any further action with respect thereto, except under instructions from the Secretary of State.

I am [etc.]

FRANK B. KELLOGG

883.0513/89a

The Secretary of State to the Minister in Egypt (Howell)

No. 306

WASHINGTON, January 22, 1927.

SIR: The Department refers to its written instruction No. 275 of July 7, 1926,⁵ directing you to inform the Egyptian Foreign Office that appropriate reply would be made in due course to its note of May 16, 1926, addressed to you⁶ in the matter of the proposed appointment of a British subject to succeed Judge G. A. W. Booth on the Cairo Mixed Court of First Instance, a matter which acquires some importance as it now requires the consideration by this Government of the question of the applicability to the mixed court judiciary of the principle of equal representation amongst the powers.

In your note of April 9, 1926, to which the Ministry's note of May 16 was in reply, you quoted extracts from the letter addressed by Sir Henry Elliot to Nubar Pasha under date of May 26, 1873,⁷ wherein the Egyptian Government was informed that the British Government was "prepared forthwith to accept the proposed arrangements respecting the judicial reforms in Egypt". After a careful study of the available correspondence the Department concurs in the conclusion which you appear to have drawn from these extracts, i. e. that one of the conditions made by the British Government in giving its adherence to the Khedive Ismail's program of judicial reform, as drafted by the International Commission which sat in Constantinople during the latter months of 1872 and the early months of 1873, was that "of avoiding giving any preponderance to one nationality over another in the selection of judges either in constituting the tribunal or in supplying the vacancies that may from time to time occur among them". Sir Henry Elliot's letter appears to be clear on this point, for he adds that "Her Majesty's Government have instructed me to intimate that their final acceptance was dependent upon the maintenance of this principle".

⁵ Not printed.

⁶ *Ante*, p. 557.

⁷ *Foreign Relations*, 1873, vol. II, p. 1118.

Stated in other terms, the principle to which expression was given by Sir Henry Elliot was that there should be equality of representation as between the principal capitulatory powers in the appointment of foreign judges chosen to serve on the Egyptian Mixed tribunals. This principle carried to its logical conclusion would necessarily recognize the fact that the representation of any lesser capitulatory power or of any non-capitulatory country should not exceed that accorded to each of the principal powers, a conclusion sanctioned by the practice of nearly forty years. There is no doubt in the mind of this Government that, at the time of the entering into force of the Khedive Ismail's project of judicial reform, this principle and its logical consequence were properly considered as applying to the selection of the foreign judiciary of the proposed mixed tribunals, i. e. to the selection of the foreign judges to serve both on the court of appeal as is evident from the earlier negotiations, and on the inferior courts, as evinced by the later negotiations which led to the choice of two magistrates from each of the principal capitulatory nations to serve on the courts of first instance. A copy of Sir Henry Elliot's letter was formally transmitted to this Government by its Minister at Constantinople under covering despatch dated May 29, 1873, and the principle outlined therein was considered by this Government as fundamental when, by proclamation of the President dated March 27, 1876,^{*} the adherence of the United States was given to the judicial reform in Egypt.

As a matter of fact, from 1876, the year in which the mixed courts commenced to function, to 1915, there was but one departure from this principle of equal representation, i. e. when a French national was appointed to fill one of the two supplementary seats, created in 1879, on the Court of Appeal, thus giving to France a total representation of four, or one greater than that of any other foreign power, on the mixed judiciary. With respect to this case, however, it should be noted that, upon the retirement of the French appointee, his place was filled by a judge of Portuguese nationality.

In 1915, following the proclamation of the British protectorate over Egypt, one French and two British judges were appointed to fill three of the four vacancies left in the judiciary of the first instance courts by the forced vacating of the seats of the German and Austrian judges. The fourth of these vacancies was filled the following year by the appointment of a judge of Italian nationality. Further, in 1920 and resulting indirectly from the elimination of German, Austrian and Russian representation on the court of appeal, two additional British judges were appointed to serve on that tribunal. These comparatively recent departures from the principle of equal represen-

^{*}19 Stat. 662; *Foreign Relations*, 1876, p. 1.

tation were noted by this Government, but no formal objections were made to the Egyptian or Allied governments for the reason that the Department had under advisement certain proposals of the British Government which, should they have been adopted by the interested foreign powers, would have led to the conclusion of agreements between them and Great Britain whereby the latter's special position in Egypt would have been recognized and whereby there would have been confided to Great Britain the powers necessary to enable it to discharge the duties which that special position was alleged to impose upon it both towards Egypt and towards foreign nationals there residing.*

An essential feature of these proposals was that which provided for a "reconstitution of the Mixed Tribunals" amounting in effect to the transfer thereto of the jurisdiction exercised in Egypt by the consular courts of the various capitulatory powers. That this particular matter was still under consideration at the time of the most recently expressed adhesion of the powers to the mixed courts is evident from the phraseology of the Egyptian Government's circular note of September 4, 1921, addressed to the representatives of the capitulatory powers in Cairo.¹⁰ In that circular the Egyptian Foreign Office, when requesting the representatives to secure the adherence of their governments "to continue the present mixed courts for an indefinite period", stated that "the Egyptian Government does not find it expedient to establish a new organization for these courts by the date mentioned". Reference may be made in this connection also to the Department's written instruction No. 2 of February 13, 1922.¹⁰ It was with the foregoing considerations in mind that the Department, in its instruction No. 271 of June 8, 1926, when mentioning the various precedents for the appointment of a British judge to succeed Judge Booth, referred to them as "not, however, necessarily closed to objection". These same considerations lead the Department logically to the necessity of instructing you to file with the Egyptian Foreign Office an exception to the closing paragraph of its note of May 16, 1926.

Leaving for the moment further consideration of the Egyptian Government's note of May 16 and returning to the discussion of the applicability to the foreign judiciary of the principle of equal representation as amongst the powers, it is to be noted that not only did Sir Henry Elliot express, on behalf of his government, adherence to this principle, but he clearly indicated, also, that his government's action was taken specifically in response to proposals received from the Khedive Ismail. The recognition by Egypt of this principle is,

* See *Foreign Relations*, 1920, vol. II, pp. 216 ff; *ibid.*, 1921, vol. I, pp. 903-921.

¹⁰ Not printed.

in the opinion of the Department, clearly to be inferred from that passage of Sir Henry Elliot's letter in which he states that "the question . . . respecting the nationality of judges . . . received the attention it deserved from Her Majesty's Government who concur in the view of the Khedive as to the importance of avoiding giving any preponderance to one nationality . . .". As of interest to the Legation in this connection, reference may be made also to letters addressed by Nubar Pasha to the American Chargé d'Affaires and to the Italian Minister at Constantinople under dates of January 17 and February 24, 1873 (i. e. some months earlier than the date of the British note) wherein, with reference to the question of equal representation amongst the powers in the choice of judges for the proposed court of appeal, he stated, in part, as follows:

To the American Chargé d'Affaires: ". . . l'intention de Son Altesse est de composer notre cour d'appel de magistrats pris dans les pays qui ont été représenté et ont étudié la question dans la commission internationale du Caire."¹¹

To the Italian Minister: "J'ajouterai même au delà de ce que vous m'avez demandé, mon chère comte, que Son Altesse tient à cette composition et elle entend la maintenir pendant l'époque quinquennale d'essai, de sorte que, si pendant cette période quelqu'un des conseillers devrait, pour une cause ou pour une autre, quitter sa position, elle entend le remplacer en engageant un autre magistrat de la même nationalité."¹²

Returning to the question raised in the Egyptian Government's note of May 16, the Department desires that you take early occasion to discuss this matter orally with the appropriate authorities at Cairo. It is not believed that, with the foregoing in mind, you will require specific or detailed instructions as to the particular matters which should be the subject of your representations. It is believed desirable, however, that, when mentioning the note, you should consider the matters discussed therein, paragraph by paragraph, as follows:

1) Paragraph 1. The Egyptian Government evidently reads into your note of April 9, 1926, a meaning which does not follow from the statements made therein. You may state that it was not your intention, nor was it the intention of your Government, to propose that the presently vacant seat on the Cairo Mixed Court of First Instance should be filled by an American nominee.

2) Paragraph 2. Keeping in mind the foregoing discussion of the principle of equal representation, you may point out that such of

¹¹ Translation: "The intention of His Highness is to compose our Court of Appeal of magistrates selected from those countries which have been represented and have studied the question in the international commission at Cairo."

¹² Translation: "I would even add, beyond what you have requested of me, my dear Count, that His Highness holds to this composition and that he intends to maintain it during the five-year trial period in such a way that if, during that period, one of the magistrates should for some reason or other give up his position, His Highness would replace him by engaging another magistrate of the same nationality."

the pertinent correspondence, exchanged between Egypt and the powers during the decade beginning 1867, as has come to the Department's attention does not appear to indicate that any formal acceptance was necessary on the part of the Egyptian Government to the statements contained in Sir Henry Elliot's note, for the reason that the proposals in question originated with the Khedive Ismail and were accepted by the British Government as one of the bases for the judicial reform.

In this connection your attention is directed to the letters of Judges Brinton and Crabitès transmitted with your despatch No. 827 of May 24, 1926.¹⁴ In particular, the Department would approve your following the sense of the suggestion made by Judge Brinton that the Legation might appropriately request that it should be furnished with copies of the correspondence or other documents upon which the Foreign Office relies to negative the sense of Sir Henry Elliot's letter.

3) Paragraphs 3 to 6. There is, of course, no disposition on the part of this Government to question the statement contained in paragraph 3 of the Egyptian Government's note of May 16 that "the Tribunals of the Reform are Egyptian courts". However, the further statement made in this connection, i. e. that "the freedom of the appointment and of the choice of the judges is not limited except by the conditions imposed in Article 5 of the *Règlement d'Organisation Judiciaire*", is open to the objection that it was specifically with respect to this article that extensive assurances and explanations were offered by the Egyptian Government to the powers during the negotiations which led up to the definitive establishment of the Judicial Reform. This Government was well aware of the attitude of the Egyptian Government in the matter of the selection of the *individual* foreign judges to serve on the courts, the appointment and choice of whom was vested in the Egyptian Government by the article in question. This position was explained in detail by Nubar Pasha in a note addressed to the American Agent and Consul General at Cairo under date of May 22, 1874,¹⁴ agreeing, upon the recommendation of President Grant, to appoint Mr. Victor C. Barringer as a judge on the projected mixed court of appeal. This Government accepted that position as one necessary to the maintenance of the principle that the proposed courts were to be truly Egyptian in character.

The Department does not feel, however, that the contentions set forth in paragraphs 3 to 6 of the Egyptian Government's note are wholly pertinent to the issue. It is clear that this Government willingly concurs in the contention of the Egyptian Government that it accorded to each of the principal capitulatory powers a minimum representation in the mixed judiciary, i. e. a minimum of one judge on the court of appeal and of two judges on the inferior courts, but it questions the implication, to be drawn from the further statements made in this connection, that the choice of foreign judges for the positions not thus filled may be exercised by the Egyptian Government without applying the principle that no preponderance is to be given to any one nationality.

This Government relies, therefore, both on the understanding exist-

¹⁴ Not printed.

ing at the time of the establishment of the courts and on the sanction which almost forty years of successful practice had given to the arrangements then put into effect to establish the desirability of a return to the application of the principle of equal representation amongst the principal capitulatory powers to the composition of the mixed judiciary. In view of the recent departures from this principle it is probable that such return could most appropriately be effected either by the gradual replacement, when occasion permits, of the additional British, French, and Italian judges now serving on the courts or by the appointment thereto of such numbers of additional American, French and Italian or other judges as would re-establish equality of numbers amongst the representatives of the four remaining principal capitulatory powers.

4) Paragraph 7. Your attention is redirected to the Department's comment contained in the paragraph beginning at the foot of page four of the present instruction.¹⁵

The Department does not desire nor does it feel that it need to enter at this time into a more detailed discussion of the position taken by the Egyptian Government in its note of May 16, last. That position, refusing as it does to recognize as applicable the aforementioned principle of equal representation, is so evidently opposed to the views of this Government, such denial is so clearly contrary to the understanding of this Government both at and continuously since the time of its first adherence to the mixed courts, that it is felt that, before making any further observations with respect thereto, should such prove necessary, it is essential that the Egyptian Government set forth at greater length and in greater detail the arguments which lead it to the conclusions expressed in its latest note. In other words, it should show clearly upon what evidence it arrived at the conclusion expressed in that note with respect to Sir Henry Elliot's letter.

The Department desires to receive and will read with interest a full report of the results of the further informal representations which, in accordance with the foregoing, you are directed to make in this matter to the Egyptian Government. The Department does not desire, however, that you address at this time any written communication with respect to this matter, either formal or informal, to the Egyptian Government.

I am [etc.]

FRANK B. KELLOGG

883.0513/91 : Telegram

The Minister in Egypt (Howell) to the Secretary of State

CAIRO, March 10, 1927—11 a. m.

[Received March 10—9:05 a. m.]

10. Your instruction number 306, January 22. On page 5, paragraph 1,¹⁵ I am instructed "to file with the Egyptian Foreign Office

¹⁵ i. e., the paragraph beginning "An essential feature of these proposals", p. 562.

an exception to the closing paragraph of its note of May 16, 1926." Last paragraph on page 11 expresses the undesirability of addressing any communication with respect to this matter to the Egyptian Government. Am I to interpret the instructions regarding written communications as not applying to filing exception noted? The two paragraphs do not seem to harmonize.

HOWELL

883.0513/91: Telegram

The Acting Secretary of State to the Minister in Egypt (Howell)

WASHINGTON, *March 11, 1927—5 p. m.*

8. Your 10, March 10, 11 a. m. It is believed desirable that for the time being you should limit your representations to an oral discussion with the Foreign Office, in the course of which you should take particular exception to the closing paragraph of its note of May 16.

With your report of the results of your representations the Department would be pleased to receive your recommendations as to the nature and content of the formal written communication which the Department will consider later authorizing you to address to the Egyptian Government.

GREW

883.0513/93

The Minister in Egypt (Howell) to the Secretary of State

No. 980

CAIRO, *March 28, 1927.*

[Received April 13.]

SIR: Referring to the Department's Instruction No. 306, of January 22, 1927, as well as to its cable instruction No. 8, of March 11, 1927, 5 p. m., with regard to the question of the applicability to the mixed court judiciary of the principle of equal representation amongst the powers, I have the honor to state that to-day I discussed the questions at issue with regard to the subject noted above, paragraph by paragraph, with the Minister for Foreign Affairs, Saroit Pasha.

In the course of this discussion I took particular exception to the closing paragraph of the Egyptian Government's Note of May 16th, last. This discussion lasted for more than three-quarters of an hour, at the close of which the Minister for Foreign Affairs stated that he understood thoroughly our position and would take up, in due

time, with the Minister of Justice, all the points raised by me during our conversation, and that so soon as he could get all the facts he would reply.¹⁷

I have [etc.]

J. MORTON HOWELL

883.0513/94

The Minister in Egypt (Howell) to the Secretary of State

No. 1018

CAIRO, June 8, 1927.

[Received July 11.]

SIR: I have the honor to refer to my Despatch No. 980, under date of March 28, 1927, with regard to the composition of the Mixed Court Judiciary and apropos of this question to state, in reply to the informal comments on despatches received from the American Legation at Cairo, made by G. Howland Shaw, Chief of the Near East Division, that no reply has yet been made by the Egyptian Government to my representations made on March 28th, 1927.

It is believed that this matter has gone by default in the way of an answer from the Egyptian Government by reason of the political tension which has been on here, as the Department has been informed, for many weeks. Should an answer with respect to the question under reference be received by the Legation during my term of service, I shall, of course, transmit same to the Department at once.

I have [etc.]

J. MORTON HOWELL

883.05/264

The Chargé in Egypt (Winship) to the Secretary of State

No. 63

BULKELEY, RAMLEH, September 19, 1927.

[Received October 21.]

SIR: I have the honor to refer to Despatch No. 1008, dated May 20,¹⁸ and No. 1018, of June 8, 1927, on the Egyptian Mixed Courts, as well as the Memorandum drawn up by me while at the Department on May 3rd,¹⁸ and to report as follows:

The agitation for the removal of the Mixed Court of Appeals from Alexandria to Cairo has, in the face of other more pressing and serious political questions been shelved, at least for the present. This is also true of the "Proposals looking to the amendment of the organic law of the Mixed Courts", which included a clause giving the Government the right to fix the domicile of the Court of Appeals.

The pressure of work on the Court of Appeals, complained of by

¹⁷ For a memorandum of this interview, see p. 569.

¹⁸ Not printed.

the Court two years ago, continues, and although a Chamber of five new judges could have been formed and added to the Court of Appeals now consisting of three Chambers of five judges each, this was opposed and a new Chamber of only three judges was proposed. For this departure the consent of the Powers was required and as shown, the request was embodied in the general amendment scheme which has been shelved for political reasons.

The Government, however, has the power, I am informed, to appoint additional judges to the Court of Appeals, and is not in favor of segregating the request for the creation of the new Chamber of three from the other proposals.

The stagnation in the Court of Appeals is so great that it is now believed that the Government will, if the political situation settles down, appoint two new Judges to the Court of Appeals: a native and a foreigner. These would be supernumerary Judges, to fill in and sit with either of the three Chambers when a Judge is ill or absent and to collaborate.

This proposal brings the names of Houriet, a Swiss to the fore as he is the senior Judge of First Instance in Egypt.

Next in line is Judge Molostvoff, a Russian, and the third in seniority is Judge Crabitès, the American Judge. The latter is, therefore, the senior Judge of First Instance of a Capitulatory country and while a non-Capitulatory Judge might be appointed to the Court of Appeals, Judge Crabitès has brought the point, above mentioned, to the attention of the Legation. If a non-Capitulatory Judge is named, I am informed, it will create a precedent and it would seem possible, therefore, that the Egyptian Government might adhere to the precedent already established and retain the Court of Appeals for judges of Capitulatory Powers.

With regard to the question of equal representation on the Mixed Courts, the Government is most anxious for independence of action, and a larger and more important Egyptian representation. I enclose herewith a memorandum of a conversation which took place on March 28, 1927, between Minister Howell and Saroit Pasha, then Minister for Foreign Affairs, which was apparently not forwarded with Despatch No. 980. The Egyptian Government has not replied or in any way referred to the above mentioned conversation or representations and I shall await instructions from the Department before taking any steps in this matter or in the point raised by Judge Crabitès.

I have [etc.]

NORTH WINSHIP

[Enclosure]

Memorandum of an Interview Between the American Minister (Howell) and the Egyptian Minister for Foreign Affairs (Saroit)

CAIRO, March 28, 1927.

Today, by previous appointment, the Minister discussed with His Excellency Saroit Pasha, Egyptian Minister for Foreign Affairs, the question of equal representation of the Capitulatory Powers on the Mixed Courts of Egypt.

The Minister first referred to his Note to the Foreign Office, of April 9, 1926, stating that the Egyptian Government evidently read into this note a meaning which does not follow from the statements therein made; that it was not his intention, nor the intention of his Government, to propose that the seat presently to be vacant on the Cairo Mixed Court of First Instance should be filled by an American.

The Minister then discussed, paragraph by paragraph, the reply of the Egyptian Government, dated May 16, 1926, taking particular exception to the closing paragraph of this note. The Foreign Minister here observed that the United States Government had made no objections when a departure from equal representation on the Courts was made in 1915. The American Minister replied that no protest had been presented at that time for the reason that his Government was considering a proposition from the British Government, which, if it had been accepted by his Government and the other Great Powers, would have changed the complexion, or organization, of these Courts, but that the proposition was not carried through, perhaps, for the reason that on September 4, 1921, the Egyptian Government sent a circular note to the various Capitulatory Powers represented in Egypt,¹⁰ stating that it did not view it expedient to establish a new organization of these courts by the time proposed. The Minister further observed that his Government did not feel that, because no protest was made in 1915, for the reasons above noted, it was excluded from entering one at the present time, but before making any further representations in the matter, that his Government felt it was essential for the Egyptian Government to set forth at greater length and in greater detail the arguments which led it to the conclusions in its Note of May 16, 1926. In other words, that it should show clearly upon what evidence it arrived at the conclusion expressed in that note with respect to Sir Henry Elliot's letter.

The Foreign Minister here stated that he thoroughly understood the position taken by the United States Government and that in due

¹⁰ Not printed.

time he would take up with the Minister of Justice all the points raised by the American Minister, and that, so soon as he had all the facts, he would reply.

The discussion lasted more than three-quarters of an hour. No *Aide Memoire* was left with the Foreign Minister.

REPRESENTATIONS CONCERNING ALLEGED DISCRIMINATION
AGAINST AMERICAN COMPANIES IN THE ENFORCEMENT OF
REGULATIONS ON STORAGE OF PETROLEUM AT THE PORT OF
ALEXANDRIA

883.6363/14: Telegram

The Secretary of State to the Chargé in Egypt (Johnson)

[Paraphrase]

WASHINGTON, July 19, 1926—5 p. m.

17. Information has reached the Department to the effect that the Egyptian Government has allowed Greek companies to store and manipulate petroleum and petroleum products in the harbor of Alexandria in disregard of existing Egyptian regulations. It is desired that you confer with the local representative of the Vacuum Oil Company and report the facts briefly by telegraph and in full by mail.

KELLOGG

883.6363/15: Telegram

The Chargé in Egypt (Johnson) to the Secretary of State

ALEXANDRIA, July 20, 1926—10 a. m.

[Received July 20—9:17 a. m.]

28. Your telegram No. 17, July 19, 5 p. m. Had conferred with representative of company several times. Shall press further for a reply from Government to written and oral representations made by Legation June 8th, 29th, July 10th. Report by mail.²⁰

JOHNSON

883.6363/18

The Chargé in Egypt (Johnson) to the Secretary of State

No. 855

ALEXANDRIA, July 20, 1926.

[Received August 27.]

SIR: Complying with the instructions contained in your telegram No. 17, of July 19, 5 p. m., to report briefly by telegraph and fully by

²⁰ See *infra*.

mail regarding the complaint of the Vacuum Oil Company as to the storage, by foreign importers, of petroleum products in barges in the port of Alexandria, in disregard of the existing regulations, I this morning telegraphed the Department and now have the honor to enclose copies of the correspondence in this matter which I believe reveal all the facts and show the steps taken to date.

It will be noted that the Legation first brought the matter to the attention of the Foreign Office in a note dated June 8th, sent on the eve of the departure of the Minister. The matter having been recalled to my attention by the Vacuum Oil representative in Cairo I took occasion to see the Minister for Foreign Affairs in person and to request some action by the Ministry of the Interior on the unanswered note of the Vacuum Oil Company of May 12th, as well as a reply to the Legation's note of June 8th.

Having been informed by the Vacuum Oil Company of a new instance occurring of a barge being used to store oil in the harbor I wrote the note of July 10th in which I referred to the interview I had had with the Minister for Foreign Affairs on June 29th.

Upon receipt of the Department's telegram this morning I ascertained from the Vacuum Oil representative that nothing had yet been heard about the matter. I am therefore arranging immediately for another interview, this time with the Prime Minister himself, Adly Pasha Yaghen. I shall also take occasion to discuss the matter informally with the Residency in view of the joining in the original complaint, (see letter of May 12th), of the British Company, the Asiatic Petroleum Company (Egypt) Ltd. As the mail closes today I shall have to postpone to a later despatch a report on the result of the interviews proposed.

I have [etc.]

STEWART JOHNSON

[Enclosure 1]

The Vacuum Oil Company, A. I. Mantacheff & Company, and the Asiatic Petroleum Company (Egypt) Ltd. to the Egyptian Under Secretary of State, Ministry of the Interior

CAIRO, 12 May, 1925 [1926].

EXCELLENCY: A considerable time ago, we protested to the Harbour authorities in Alexandria against small importers of petroleum being allowed to store petroleum permanently in boats in the harbour and to discharge their cargo into tankwagons, tankcarts or other receptacles on the quay.

We pointed out that, whereas we spent large amounts of money in providing proper storage tanks on shore and taking every possible precaution against accidents, these small importers, who had little or

no experience in petroleum, were permitted to store and handle petroleum in a way that constituted a grave danger.

We are now writing to Your Excellency as one of the boats so used for storing petroleum recently met with an accident in Alexandria harbour and it was purely a matter of good fortune that the harbour was not flooded with large quantities of inflammable kerosene which might have ignited and caused enormous loss by fire to shipping in the harbour and properties in the vicinity.

This method of storage has during recent years been permitted to three different importers (two of which have since ceased to conduct their business in that way). There is, however, another merchant in Alexandria advertising the fact that he proposes to import a cargo of kerosene in the very near future and store it in the same most dangerous way.

In drawing Your Excellency's attention to this, we beg to point out, first, the unfairness caused to serious companies such as our own who spend large sums of money in endeavoring to secure perfect safety to the general public, while other companies are permitted to ignore entirely public security, and, secondly, we must say that we feel compelled, if this mode of handling petroleum is permitted to continue, to state that we are seriously perturbed at the grave danger of damage to our own property in Alexandria, and we must add that if damage occurs to any of our property from this cause, we shall feel compelled to hold the Government responsible.

We have [etc.]

FOR VACUUM OIL COMPANY

FOR A. I. MANTACHEFF & COMPANY

FOR THE ASIATIC PETROLEUM COMPANY (EGYPT) LTD.

[Enclosure 2]

The American Minister (Howell) to the Egyptian Minister for Foreign Affairs (Saroit)

No. 356

CAIRO, June 8, 1926.

EXCELLENCY: I have the honor to call Your Excellency's attention to a copy of a letter addressed to His Excellency the Under-Secretary of State, Ministry of the Interior, under date of May 12, 1926, and signed by representatives of the Vacuum Oil Company, Mantacheff Company and the Asiatic Petroleum Company (Egypt) Ltd., which is self explanatory.

I am informed by the representative of the Vacuum Oil Company, an American corporation, that up to date no reply has been received to the communication under reference.

After a very complete recitation of the facts in respect to the matter contained in the enclosed letter, I have been led to the conclusion that

the objections entertained by the various Oil Companies against these floating barges of petroleum are well taken. It would appear that these small importers of this product are carrying on not only in an illegal manner but in a manner prejudicial, at the same time, to the safety of these various Companies that are properly installed for the transaction of their business in this product.

It is recited, among the complaints made in this matter, that but recently a small importer has brought in petroleum supplies and is storing them in a small barge in the harbor itself not far distant from the installation of the Vacuum Oil Company.

It is confidently believed that to call Your Excellency's attention to this matter will be sufficient to cause such an investigation to be made as will give satisfaction to these companies in question.

Please accept [etc.]

J. MORTON HOWELL

[Enclosure 3]

The American Chargé (Johnson) to the Egyptian Minister for Foreign Affairs (Sarait)

No. 361

BULKELEY, [RAMLEH,] July 10, 1926.

EXCELLENCY: I have the honor to recall to Your Excellency's attention the Legation's Note No. 356, of June 8th, regarding a complaint made by the Vacuum Oil Company, an American corporation, with reference to the illegal storage of oil by small importers of petroleum in Alexandria harbor, to the detriment of the Vacuum Oil Company and to the danger of the community.

It will be recalled that the matter was covered in a letter, dated May 12, 1926, to the Ministry of the Interior from both the Vacuum Oil Company, The Asiatic Petroleum Company (a British corporation) and A. I. Mantacheff & Company, to which no reply has yet been received.

Your Excellency will also recall that, on Tuesday, June 29th, I had the honor of referring to the matter in the course of my interview with you.

I am now, however, in receipt of another letter from the Vacuum Oil Company, dated the 7th instant,²¹ stating that they feel it necessary to advise me further that one of the small importers of petroleum, previously referred to, is making arrangements to bring still another barge of about 800 tons capacity to Alexandria, to serve as a floating storage tank, thus still further aggravating the prejudicial and dangerous situation against which they are protesting.

In expressing the hope that Your Excellency may be able to give to the complaint of these important foreign interests the attention it undoubtedly deserves, I avail myself [etc.]

STEWART JOHNSON

²¹ Not printed.

SS3.6363/22

The Chargé in Egypt (Winship) to the Secretary of State

No. 886

CAIRO, September 30, 1926.

[Received November 1.]

SIR: I have the honor to report further, in compliance to cabled instruction No. 17, of July 19, 1926, 5 p. m., that the Minister for Foreign Affairs addressed a note to the Legation on August 26, 1926, in reply to the two notes from the Legation dated June 8th and July 10th, (copies of the last mentioned notes were enclosed in Despatch No. 855, dated Alexandria, July 20, 1926). A copy of the original note from the Minister for Foreign Affairs is attached hereto as enclosure No. 1, together with a translation thereof.

Since my return to Cairo I have conferred several times with the officers of the Vacuum Oil Company and have received from them a "Memorandum on the Use of Floating Storage in Alexandria Harbour" in which they answer item by item the points raised by the Ministry for Foreign Affairs. Copy of this memorandum is transmitted as enclosure No. 2.²²

In the meantime the Vacuum Oil Company has raised another point regarding irregularities in the application of petroleum regulations in Alexandria which is outlined in the second memorandum, enclosure No. 3.²²

From my short acquaintance with the case it would appear that there is a discrimination against old established oil companies in Egypt, including the Vacuum Oil Company, through the granting of special privileges and immunities to small competing firms. Established concerns are held to a strict observance of the Egyptian regulations regarding petroleum which require that "vessels load and unload with all reasonable speed and leave the harbour as soon as the work is completed or subject themselves to a penalty" and expensive tanks must be maintained on land owned or purchased, etc., while several small dealers are permitted to store oil in floating barges in Alexandria harbour and fill their tank cars from these barges direct.

These privileges make it possible for the smaller concerns to undersell the established firms.

It is also pointed out that these floating barges are in such close proximity to the tanks and warehouses of the Vacuum Oil Company that they represent a menace to the safety of American property.

In view of the fact that Minister Howell is returning to Cairo within a week I shall not take the matter up with the Foreign Office and have so informed the Vacuum Oil Company.

I have [etc.]

NORTH WINSHIP

²² Not printed.

[Enclosure—Translation ²²]

*The Egyptian Minister for Foreign Affairs (Saroit) to the American
Chargé (Johnson)*

No. 15.7/8 (3261)

CAIRO, August 26, 1926.

MR. CHARGÉ D'AFFAIRES: By Notes No. 356 of June 8, and No. 361, of July 10, 1926, the Legation of the United States of America has seen fit to call the attention of this Ministry to a complaint formulated by the representatives of three oil companies, including the "Vacuum Oil Company", on the subject of the authorization granted certain importers to establish floating depots in the port of Alexandria, an authorization which had already been the subject of a protest addressed to the Ministry of the Interior. The representatives of these companies disclosed that they had incurred great expense in the construction of reservoirs upon land and in taking every possible precaution to prevent accidents and that the establishment of these floating depots by importers lacking experience not only caused them an inequitable injury but constituted also a grave danger for the neighboring reservoirs as well as a menace to public security.

This protest having been submitted to the careful examination of a competent authority, I have the honor to impart to you the following information:

The general question of the control of the trade in petroleum in Egypt has recently been the object of a minute examination by a committee, especially appointed for this purpose, which has gathered together the views of the best experts whom the Government was in a position to enlist. This committee has given special attention to the question of floating depots. It has been established that the introduction of these depots in Alexandria is due to the lack of place on land itself for the establishment of new installations as well as because of the extent of the existing installations and because in awaiting the creation of a Petroleum Basin the use of floating depots cannot be prevented without imposing a grave restriction on trade and an injury to the general interests to the port of Alexandria.

In recognizing that the use of floating barges should be considered as provisional, the committee has arrived at the conviction that they do not constitute in themselves a special danger.

For these reasons the competent authorities do not believe that the establishment of floating barges injures the interests of the companies in question or threatens the security of their installations and this the more so because certain of them make use of floating barges for the supplying of their reservoirs.

On the other hand the authorities have taken all necessary measures for the control of these depots in the general interest.

Kindly accept [etc.]

A. SAROIT

²² File translation revised.

883.6363/24

The Minister in Egypt (Howell) to the Secretary of State

No. 898

CAIRO, October 22, 1926.

[Received November 11.]

SIR: I have the honor to refer to the Legation's Despatch No. 886, of September 30, 1926, dealing with the matter of the Vacuum Oil Company, wherein, it will be noted from previous correspondence which had been forwarded to the Department by the Legation, that a protest had been registered by this company with the Egyptian Government against small importers of petroleum being allowed to store petroleum permanently in boats in the harbour, at Alexandria, and to discharge their cargo into tankwagons, tankcarts or other receptacles on the quay.

Apropos of this subject, and for the Department's further information, I have the honor to herewith transmit a copy of a communication from the Vacuum Oil Company, dated October 7, 1926, in further protest against this alleged illegal procedure in the storage and handling of petroleum in Alexandria harbour, a copy of my reply to the Vacuum Oil Company, and a copy of my communication to the Foreign Office, transmitting this letter of protest in question. I am also enclosing herewith a copy of a further communication from the Vacuum Oil Company, together with its enclosure—the Egyptian Government's "Handbook of Regulations Governing Storage, Transport and Handling at Harbours of Petroleum"—in order that the Department may fully acquaint itself with the regulation governing the handling and storage of this product.²⁴

The Legation respectfully requests to be instructed as to further procedure in the matter under reference.

I have [etc.]

J. MORTON HOWELL

[Enclosure]

The American Minister (Howell) to the Egyptian Acting Minister for Foreign Affairs (Séoud)

CAIRO, October 12, 1926.

EXCELLENCY: Adverting for the moment to the correspondence which has taken place between the Royal Egyptian Ministry for Foreign Affairs and this Legation relative to the question of illegal storage of petroleum products in Alexandria Harbour, I have the honor to herewith enclose, at the request of the Vacuum Oil Company (an American corporation), a "Further Protest Against Floating Storage of Kerosene and Benzine in Alexandria Harbour."

In transmitting this protest I profit by the occasion [etc.]

J. MORTON HOWELL

²⁴ Of the enclosures mentioned in this paragraph, only the Minister's communication to the Foreign Office and its enclosure are printed.

[Subenclosure]

*Memorandum by the Vacuum Oil Company***FURTHER PROTEST AGAINST FLOATING STORAGE OF KEROSENE AND
BENZINE IN ALEXANDRIA HARBOR**

We have to call attention once more to our Protest of May 12th 1926²⁵ against the dangerous and discriminatory practice of oil storage in barges at Alexandria; also to our protest of September 28th 1926²⁶ against the menace to our installation there caused by the storage of benzine under highly irregular conditions in the Customs zone.

Since these various protests were made there has occurred a second most serious incident in the harbour which demonstrates conclusively our insistent claim that the toleration of floating storage makes possible and even extremely probable a disaster to the port and to our installation.

The first instance, as is quite well known, was that of the narrow escape from destruction of the *Lisette* last winter. The second is the breaking out on October 2nd of a fire on board the tanker *Jules Henry* while she was moored near the Petroleum Company of Egypt's fleet of floating reservoirs.

There can be no question of doubt, as we have insisted from the first, that the presence of floating storage is a distinct menace to the harbour and to our installation close by. On both these occasions all the elements necessary for a catastrophe existed, and such a catastrophe has been averted by nothing more dependable than the greatest of good luck.

To make a very bad situation infinitely worse the Petroleum Company of Egypt, in addition to securing a permit to store benzine under dangerous conditions in the Customs zone on shore, have been allowed to station alongside their floating reservoirs lighters filled with benzine. These were in close proximity to the *Jules Henry* while the fire was going on.

For the protection of our own property at Alexandria as well as in the interest of ordinary public security, we are compelled to protest most vigorously against the continued toleration of floating storage in the harbour; both because of its dangerous nature and because it exempts the users from the observance of the Egyptian Government's own regulations regarding petroleum storage, and is therefore discriminatory. We would request that at the very least the storage of benzine in lighters be prohibited at once.

²⁵ *Ante*, p. 571.

²⁶ Not printed. See despatch No. 886, Sept. 30, 1926, from the Chargé in Egypt, p. 574.

883.6363/24a : Telegram

The Acting Secretary of State to the Minister in Egypt (Howell)

[Paraphrase]

WASHINGTON, February 3, 1927—3 p. m.

4. With reference to your despatch No. 898 of October 22, 1926. Endeavor to ascertain the views of your British and Rumanian colleagues on the question of petroleum storage and the nature of any representations which they may have made to the Egyptian Government. Also ascertain whether, if the protested practice continues, they would be in favor of joint or concurrent representations and, in such event, the nature of the arguments upon which they would be prepared to base such action.

Report the results of your conversations briefly by telegraph, also the present status of the controversy and your recommendations. Report fully on the subject by mail.

GREW

883.6363/25 : Telegram

The Minister in Egypt (Howell) to the Secretary of State

CAIRO, February 23, 1927—3 p. m.

[Received February 23—12:40 p. m.]

7. Your telegram No. 4, February 4th [3rd]. Investigation discloses no direct action upon part of British and Belgian colleagues.²⁷ Latter favorable to joint action. British considering what steps if any should be taken. They seemed impressed with the irregularities pointed out and indicated arguments to be used in justice to companies complying with the law and danger to plants operated by these companies. It is believed floating storage with little investment has caused petroleum products to be sold at a lower figure than would otherwise obtain. Recommend that no further action be taken until the British reply to my memorandum left with the High Commissioner.²⁸

HOWELL

883.6363/28

The Minister in Egypt (Howell) to the Secretary of State

No. 968

CAIRO, March 8, 1927.

[Received April 4.]

SIR: I have the honor to refer to my Despatch No. 898, of October 22, 1926, and to the Department's telegram No. 4, of February 4,

²⁷ In his telegram No. 8, Feb. 25, 1927, 9 a. m. (file No. 883.6363/27), the Minister stated: "Belgian colleague represents Roumanian interests".

²⁸ Copy not found in Department files.

1927, as well as to previous and subsequent correspondence on the question of storage of petroleum products in floating barges in Alexandria harbour contrary to Egyptian regulations.

It will be recalled that in my telegram No. 7, under date of February 23, 1927, I recommended that no further action be taken in this matter until the British reply to my memorandum, left with the High Commissioner on February 8, 1927, had been received. I am just now in receipt of the High Commissioner's reply to the memorandum above mentioned and am herewith enclosing a copy of it.

It will be observed, by the enclosed note from the High Commissioner, that the opinion expressed in my telegram under reference with regard to the attitude of the British upon this question was a correct one. I very much doubt, in the circumstances, as above pointed out, whether any further steps should be taken at this time by us with a view to eliminating these barges from the harbour of Alexandria, as permitted by the Egyptian Government, notwithstanding the fact that they seem to be operating in violation of the regulations of the Egyptian Government controlling the storage and sale of petroleum products.

I shall at once communicate to the Vacuum Oil Company the situation as viewed by the Residency and await further instructions from the Department.

I have [etc.]

J. MORTON HOWELL

[Enclosure]

The British High Commissioner in Egypt (Lloyd) to the American Minister (Howell)

L 1102/163

CAIRO, 3 March, 1927.

SIR: I have the honour to refer to the conversation which Your Excellency had with me some days ago regarding the floating Petroleum depots at Alexandria, and to inform Your Excellency that I have closely studied the memorandum on the subject which Your Excellency was good enough to leave with me.²⁹

2. The information at my disposal would seem to show that the state of affairs in the harbour has greatly improved since the Vacuum Oil Company's memorandum of October 7th last³⁰ was handed to Your Excellency. I am moreover advised that in the opinion of the competent authorities of the Egyptian Government the maintenance of these floating depots is definitely advantageous to the country, and that they are satisfied that the steps now taken to provide for the security of the shipping in the harbour are reasonably adequate.

²⁹ Copy not found in Department files.

³⁰ See *ante*, p. 577.

I am indeed informed that the present land installations at Alexandria are themselves very unsatisfactory in this respect.

3. In the circumstances therefore I think Your Excellency will agree with me that no combined action on our part would now seem to be required. I would however suggest for Your Excellency's consideration the propriety of affording the Egyptian Government an opportunity of answering the criticisms contained in the Vacuum Oil Company's memorandum, should the latter still hold to the views contained therein. In making the above suggestion Your Excellency will, I trust, realise that I in no way wish to intervene in a matter which is not within my competence and in regard to which the decision must of course rest with Your Excellency alone.

4. I shall be happy, should Your Excellency so desire, to discuss this question with Your Excellency at any time and to afford Your Excellency all assistance which it may be in my power to provide.

I avail myself [etc.]

LLOYD

883.6363/32

The Chargé in Egypt (Winship) to the Secretary of State

No. 14

BULKELEY, RAMLEH, July 25, 1927.

[Received August 25.]

SIR: I have the honor to refer to previous correspondence regarding the representations made by the Vacuum Oil Company to the Egyptian Government regarding discrimination against the established oil companies in permitting the practice of floating petroleum storage in Alexandria Harbor, and to report as follows:

Before leaving Cairo I mentioned the case to Lord Lloyd and added that the Vacuum Oil Company's representative wished the cooperation of the Asiatic Petroleum Company and British support in the presentation of their claim to the Public Security Department of the Ministry of Finance; later Mr. Hodgson also talked to Lord Lloyd on the subject and Mr. Henderson was advised by Lord Lloyd of the desirability of an informal conference as soon as conditions permitted.

On July 16th therefore a conference was called by Cecil Campbell, Acting Financial Adviser to the Egyptian Government, and held at the British Residency. Those present were: Mr. Henderson, Acting High Commissioner, Mr. Wallenger, III Secretary at the Residency, Mr. Campbell, Mr. Lang, Petroleum Expert of the Egyptian Government, Mr. Home representing the Asiatic Petroleum Company, Mr. Henry representing the Vacuum Oil Company and Mr. Hodgson, Commercial Attaché.

Before the meeting I had talked on the subject with Mr. Henderson and had long conferences with Mr. Henry and Mr. Hodgson.

The Egyptian Government contended that there was no land available for the users of floating docks and that nothing could be done. Mr. Henderson however admitted apparent discrimination at the outset.

Mr. Henry had made an exhaustive study of the situation, and during the present month had obtained a long lease on a piece of property suitable for oil tanks on which the Vacuum Oil Company intends building a two hundred thousand [*two thousand*]³¹ ton tank. At the same time Mr. Henry located other land available for oil tanks. This fact was the strong point in his argument.

The fact that the floating docks have been permitted and in existence for several years makes it very difficult for the Egyptian Government to now enforce the long infringed law, especially following pressure from the wealthy American and British Oil Companies.

The danger of an embarrassing attack in Parliament against wealthy companies holding and usurping the Egyptian market and defying competition must be at all times considered.

It was therefore agreed that the first and best hope was for the old established Oil Companies in Egypt to unite and present jointly to the Public Security Department a report and appeal, pointing out the danger of the present system and showing that land is available.

Since the meeting referred to Mr. Henry has drawn up for presentation an extensive report accompanied by a map of the harbor showing all the oil tanks as well as the new land acquired, and the other suitable land still available. A copy of this map is on file in this Legation.

I have had, in the last few days, a long talk with Mr. Henderson on the subject, as well as with the representative of the Ministry of Finance, and in each instance I have presented Mr. Henry's argument.

The one company still enjoying the floating storage privilege now admits having storage up to one thousand tons, but Mr. Hodgson estimates their storage at three thousand tons.

Mr. Henry left for America last Friday apparently satisfied with the turn of events, especially as the Acting Financial Adviser stated, during the last interview, that no further grants or permits for floating storage would be issued and that the company now existing and holding the permit would not be permitted to increase its stock. This is a very important statement and a decided step in the right direction.

The final outcome in this case will apparently depend on the merits of the joint appeal, upon which I shall report later.

I have [etc.]

NORTH WINSHIP

³¹ Corrected on the basis of despatch No. 24, Aug. 1, 1927, from the Chargé in Egypt, received in the Department Aug. 18, 1927 (file No. 883.6363/31).

883.6363/24

The Secretary of State to the Chargé in Egypt (Winship)

No. 343

WASHINGTON, November 25, 1927.

SIR: There is enclosed, for your information, a copy of a memorandum of a conversation, dated November 7, 1927, between Mr. P. N. Macdonald and Mr. F. H. Henry of the Vacuum Oil Company and an officer in the Department's Division of Near Eastern Affairs with reference to the question of petroleum storage in Egypt and other matters in which it is believed your office will be interested.

I am [etc.]

For the Secretary of State:

NELSON TRUSLER JOHNSON

[Enclosure]

Extract From a Memorandum by Mr. George Wadsworth, of the Division of Near Eastern Affairs, of a Conversation With the Managing Director for the Near East (P. N. Macdonald) and the Egyptian Manager (F. H. Henry) of the Vacuum Oil Company

[WASHINGTON,] November 7, 1927.

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(2) *Petroleum Storage in Egypt.*

Mr. Macdonald and Dr. Henry were pleased to be able to state that this matter (see I. B. File 883.6363/24 and related papers) was well on the way to satisfactory settlement. They were convinced that Lord Lloyd's refusal to join with Dr. Howell in representations in this matter to the Egyptian Government (see despatch No. 968 of March 8, 1927 from Cairo) had been motivated largely by his personal feelings with respect to Dr. Howell; that prior to his departure for Egypt last June he had directed Acting High Commissioner Henderson to investigate what might be done in the matter; that following Dr. Howell's departure on July 6 Henderson had called a meeting of representatives of the interested oil companies and of the appropriate officials of the Egyptian Ministry of the Interior; and that as a result of this discussion it had been decided that no further licenses should be granted for storage of petroleum in floating barges in the Alexandria harbor and that the two companies now operating under such permits would be afforded the opportunity to lease from the government desirable water-front property whereon to construct storage tanks in accordance with the prevailing Egyptian regulations, it being provided that should they not accept this offer their permits would be withdrawn.

With respect to the general question of new Egyptian petroleum storage regulations, Mr. Macdonald pointed out that such regulations had been issued by the Egyptian Ministry of the Interior to take effect on November 1st of this year; that the Ministry's authority flowed from an old law authorizing it to control throughout the country the storage of petroleum products; and that the regulations had been drafted in consultation with the principal companies marketing petroleum in Egypt, and were in general satisfactory to those companies. He pointed out, however, that compliance with the new regulations would entail the expenditure of approximately \$1,000,000 by the Vacuum Oil Company in the remodeling or moving of certain of its storage stations. The company has approximately one hundred distributing stations of this character. It was prepared and willing to make the necessary expenditure but it felt strongly that if it was required to live up to the regulations and to make this large capital expenditure certainly the smaller operators should be required with equal strictness to live up to the new regulations. It was therefore a question primarily of principle which had led the company to press so strongly its point of view with respect to the storage of petroleum in open barges in the Alexandria harbor.

In conclusion he stated that he would keep us informed of developments in the matter and that for the time being further representations by this Government were, in his opinion, unnecessary.

ETHIOPIA

REESTABLISHMENT OF AMERICAN DIPLOMATIC REPRESENTATION IN ETHIOPIA

125.0084/35

Mr. Ralph J. Totten, Consul General Detailed as Inspector, to the Secretary of State

[Extracts]

No. 4

HARRAR, ETHIOPIA, *May 22, 1926.*¹

[Received July 13.]

SIR: I have the honor to refer to the Department's instruction of February 16, 1926,^{1a} directing me to proceed to Adis Abeba, ^{1b} Abyssinia, and to remain there as long as might be deemed necessary for the purpose of investigating the desirability of establishing American diplomatic or consular representation in Abyssinia.

SECTION D. NEED FOR AMERICAN DIPLOMATIC OR CONSULAR REPRESENTATIVE

Reasons For. In 1906 an American Consul General served at Adis Abeba. From 1906 to 1909 we had a Vice Consul in charge. In 1909 there was a Minister Resident and Consul General. From 1910 to 1913 there was a Vice Consul General in charge. Since that date we have had no representative in Abyssinia, our interests being looked after by the British who have a combined Legation and Consulate General at Adis Abeba and Consulate at seven other points in Abyssinia.

Protection of American Interests. There are many reasons in favor of reestablishing representation in Abyssinia. Present American interests are few and unimportant as yet. The American-Ethiopian Mica Mines Concession, the American hospital, the American school, the exploration concession of the Anglo-American Petroleum Company and the Arabian Trading Company, with the protection of the interests of the few resident Americans and tourists are the most important. I am convinced, however, that these interests will steadily increase within the next few years. Within the last twelve months about thirty five Americans have visited Adis Ababa, including sev-

¹ This despatch was begun May 22, 1926. It was completed and mailed June 17, 1926.

^{1a} Not printed.

^{1b} i. e., Addis Ababa.

eral writers, sportsmen, tourists and business men. Several new books and articles have been written about Abyssinia and each of these will cause a certain number of added visitors. In each case these American visitors have been, and will be increasingly, a burden on the British representatives who are charged with the protection of American interests. Two cases may be mentioned. Mr. Frank Hipple, an American citizen representing the American-Ethiopian Mica Mines Concession in Abyssinia, died at Dire Dawa in April of this year. He left the business of his company without a head and also left some personal effects. The British Minister has had to attend to the inventory of personal effects and the carrying on of the concession through a representative in Dire Dawa. The result has been that the British representative has been put to considerable trouble without getting the settlement of Mr. Hipple's affairs very much advanced. The Field Museum of Natural History of Chicago proposes sending an expedition to Abyssinia in October of this year to remain from six to nine months for studying and collecting the fauna of the country. The British Legation will have to attend to all arrangements for free entry of the scientific material, for visas for the personnel and assist them in many different ways during their entire stay in Abyssinia. As their work will take them to the wilder districts of the country it is almost certain that they will need assistance quite frequently enough to cause considerable trouble to the British representatives. In the past some Americans of the adventurer-concession hunter type have reached Abyssinia and as the country becomes better known, the advent of this type will almost certainly increase. The prestige of America and Americans is at present unusually high. The presence of an American representative would probably help to avoid loss of prestige through this class of adventurer. The protection of the Abyssinians, who are now disposed to believe anything American to be absolutely trustworthy, from unreliable persons is just as important as the protection of the interests of those Americans entitled thereto.

Extension of American Trade. American trade with Abyssinia is at present indirect and relatively unimportant. Formerly we supplied most of the cotton sheeting which is an important article of trade in Abyssinia but the Japanese cotton piece goods have supplanted the American. Sewing machines, motor cars, kerosene, phonographs, toilet articles, typewriters and a few agricultural implements of American manufacture are to be seen in the stores in the larger cities. As explained above it seems reasonably certain that with increased production of coffee and other agricultural and natural products the purchasing power of the people will become greater. The demand for European or American types of automobiles, office and household fur-

niture, carpets, curtains, lamps and oil stoves, gramophones, player pianos, cotton and woolen piece goods, hats, toilet articles, perfumery, watches, china, glassware etc. is undoubtedly increasing. An American who left Adis Abeba while these notes were being made sold his furniture, rugs and household equipment for as much or more than its original cost. The Prince Regent's trip to Europe, with his suite, and the constantly increasing number of Abyssinians who are going abroad tend to cause an interest in the simpler conveniences and necessities of modern civilization. There are at present some fifty young Abyssinians being educated in Europe and the United States who will bring back modern ideas to the country. All of these factors will combine to raise the scale of living in this country and to increase the need for imported merchandise. This is a country with an area about equal to that of Germany and France combined, with a population larger than that of Canada; with a cool, equable climate, abundant rainfall and soil which will produce almost everything from tropical to cold climate crops; with potential and untouched mineral resources; and, which is as yet almost totally undeveloped. When it is remembered that in addition to the facts just stated the country has an intelligent, progressive and ambitious young ruler, it is impossible to be other than optimistic as to its immediate future.

Ras Tafari's Desire. The earnest desire of Ras Tafari, the Prince Regent, for an American representative in Abyssinia, as shown by his many requests made in personal letters to the President and indirectly through the American Consulate at Aden, is not to be doubted. His reasons for this are entirely from the point of view of helping his country, and contain little that could be used as an argument from the American standpoint. It does prove, however, that we would not be sending a representative to a country which is indifferent or actually opposed to receiving our mission, but to a country and ruler who really want an American representative. The Prince Regent states in no uncertain terms that at least three of the great powers who have representatives in the country, namely Great Britain, France and Italy, are too closely interested in Abyssinian affairs, because they possess contiguous territory, to be unprejudiced. There is no doubt but that the Prince hopes to receive unprejudiced advice and assistance from our representative, if one is sent. He also hopes that it may later become possible to interest American capital in certain projects for the development of the country. He has discussed the employment of Americans for several purposes, such as a business manager for a commercial company with banking activities in which he is interested; a hydraulic engineer to study water power, irrigation projects, etc.; and a geologist to study the mineral resources of the country. In the letter from the

President to the Prince Regent which I presented to His Highness are found the following statements:²

“To His Imperial Highness,
Ras Tafari,
Prince Regent of Ethiopia.

“Great and Good Friend:

“It affords me great pleasure at this time to convey to Your Imperial Highness the expression of my friendship and good wishes for your personal happiness and for the continued prosperity of your country, as well as to recall Your Highness's desire, expressed during the administration of my distinguished predecessor, the late President Harding, and equally shared by him and by myself that the question of the reappointment near the Government of Ethiopia of an official representative of the United States might be considered”.

“In addressing Your Highness in these matters, I desire again to assure you of my own good wishes and of my earnest hope that the present mission will result in a strengthening of the ties between Ethiopia and the United States”.

There is no doubt but that to the oriental mind accustomed as they are to circumlocution and veiled meanings, this would be considered as most hopeful. In a letter to President Coolidge the Prince Regent says in part:³

“Your Excellency,
May peace be with you.

“The absence of the Legation of the United States of America, a Legation which existed formerly, has for a long time caused me much regret, Mr. President, and makes me fear that the friendship between our two governments might seem to be diminishing. I wrote to this effect to your beloved and lamented predecessor, President Harding, a letter which Your Excellency had the kindness to acknowledge after President Harding's death.⁴ However nothing worth while can ever be realized until the right moment, and, in my happiness in feeling and hoping that that moment seems to be drawing near when my efforts and hopes may be crowned with success, there is an [e]special pleasure in the thought that this may come about during your administration.

“I was very much pleased to learn from your letter of December 17, 1925 that Mr. Totten, your envoy, occupies a high position under the Secretary of State, a fact which fully proves that you are genuinely interested in Ethiopia and that you have a real desire to see reestablished and augmented the friendship between our two countries”.

If we do not send a representative to Abyssinia or take active steps showing our intention to do so within the six months following my

² Dated Dec. 17, 1925; complete letter not printed.

³ Dated May 24, 1926; complete letter not printed.

⁴ Letters not printed.

visit I am convinced that the Prince will lose faith and interest in America and will be cold and indifferent to any one who might be sent at some later date.

Contrary Arguments. The small total foreign trade of the country, and especially that with the United States, the relative unimportance of our relations with, and interests in, Abyssinia, and the possible lack of stability of the present Government are the most apparent arguments against the need for an American representative.

As explained above it is believed that the foreign trade of Abyssinia will increase considerably within the next few years. If this prediction proves correct then the extent to which we shall share in this increase depends upon ourselves. Certainly we shall have little chance to benefit thereby unless we have an agency to report on commercial conditions and opportunities for the extension of American trade. It has also been explained that there are reasons to believe that our general interests in the country and the number of our citizens coming here will steadily increase as the country becomes better known.

The last reason, that is the possible instability of the government, is the most important. The Prince Regent and Heir to the Throne, Taffari Makonnen, is either directly or indirectly responsible for almost everything in the way of progress, education and modern civilization in Abyssinia. The Empress is largely a figure-head who has neither the education nor intelligence to enable her to decide things for herself. She is to a great extent dominated by the priesthood, and the old conservative element headed by the Hapta Giorgis, the aged Minister of War, who are against all progress. If anything should happen to Ras Taffari, or if he should be deposed, the country would go back a few hundred years in a few weeks and it would take long time to recover. It is the general belief, however, especially among foreigners that the Prince Regent is gaining rather than losing in popularity and the confidence of his people. His attractive personality, his intelligence, and, his evident honesty and loyalty to his country seem to be winning friends and adherents. As the better educated, younger generation, especially those educated abroad, come to manhood and to positions of trust it is thought that most of the danger of retrogression will have passed.

SECTION E. RANK OF REPRESENTATIVE

Rank of Representatives of Other Countries. Great Britain, France, Italy, Belgium, Germany and Turkey have legations at Adis Abeba. Soviet Russia is sending a representative but his rank is not yet known. Austria, Greece, Sweden, Egypt and several other countries have honorary consular officers. The representatives of the five

countries first mentioned have the local rank at least of Envoy Extraordinary and Minister Plenipotentiary. (See Enclosure No. 1 showing cards of British, Italian and German Ministers).⁵ In the case of the British representatives it is known that the rank of Envoy Extraordinary and Minister Plenipotentiary is a local one. The rank of the present incumbent under the British Foreign Office is believed to be Minister Resident and Consul General and it is quite probable that some of the others are full ministers only by local rank and from their own service standpoint have a lower classification. The fact remains, however, that all, with the exception of the Turkish representative who is a *Chargé d'Affaires* have the local rank of Envoy Extraordinary and Minister Plenipotentiary.

Rank of American Representative. As far as his usefulness to our country and his influence and standing with the Prince Regent is concerned it would not make the slightest difference whether the American representative were a Consul General, Diplomatic Agent, Minister Resident or a full Minister. It would, however, make a considerable difference in his dealings with other representatives; in the effect on Abyssinians other than Ras Tafari; and, in the personal pride of the incumbent. Great Britain, France, Italy, Belgium and Germany would be given precedence at all official functions and public ceremonies. It is believed that if it be possible, the American representative to Abyssinia should be an Envoy Extraordinary and Minister Plenipotentiary. If this should not be feasible then an able and efficient Minister Resident or even Diplomatic Agent should be sent, letting the question of rank and precedence take care of itself and telling our representative to make a place for himself by his own initiative and intelligence. It is believed that our representative should have diplomatic status of some sort to avoid any complications and difficulties in regard to customs charges, duties, taxes, etc. Except for this a Consul General would be my next choice after a Minister.

SECTION J. RECOMMENDATIONS

After the most careful and conscientious consideration, my recommendation is that an American representative be sent to Adis Abeba, and that, if it be possible he be given the rank of Envoy Extraordinary and Minister Plenipotentiary in order to rank with the representatives of England, France, Belgium, Italy, Germany, Turkey and Russia. If it be considered impracticable to send a full Minister, then a Minister Resident or a Diplomatic Agent should be

⁵ Not printed.

sent. For many reasons a Consul General would be next best after the full Minister but it would be of great value to our representative to have diplomatic status in connection with customs and tax exemptions. As explained in Section E, from the Abyssinian point of view it is not believed that it would make a great deal of difference what rank we decide to give to our representative provided the right kind of man be sent but in his intercourse with other foreign representatives and in certain ways hereinbefore explained it would make a very considerable difference to the person we send.

I also recommend that our representative be sent as soon as possible after the receipt and study of this report.

I have [etc.]

RALPH J. TOTTEN

125.0084/39

The Secretary of State to the Vice Consul at Aden (Park)

WASHINGTON, February 7, 1927.

SIR: The Department duly received Mr. Totten's despatch No. 5 of June 17 last,⁶ transmitting a sealed envelope containing two letters addressed to the President by His Imperial Highness, Ras Tafari Makonnen, Prince Regent of the Empire and Heir to the Throne of Ethiopia. One of these letters concerned two elephant tusks which the Prince sent as a personal gift to the President,⁶ and the other related to the establishment of a diplomatic mission at Addis Ababa.⁷

The Department now encloses the President's replies to the communications from the Prince, together with office copies thereof, as well as copies for the files of the Consulate.

The office copies should be transmitted to the appropriate office of the Ethiopian Government and the original letters transmitted to their destination in the manner that may be most agreeable to His Imperial Highness.

I am [etc.]

For the Secretary of State:

J. BUTLER WRIGHT

[Enclosure]

President Coolidge to Ras Tafari Makonnen, Prince Regent of Ethiopia

GREAT AND GOOD FRIEND: It affords me great pleasure to learn from Your Highness's letter of May 24, 1926, that my special emis-

⁶ Not printed.

⁷ Letter of May 24, 1926, quoted in part on page 587.

sary to Your Highness, Mr. Ralph James Totten, was so fortunate and so diligent in the performance of his duties as to gain your friendly support and esteem.

With respect to the subject of Mr. Totten's mission, i. e. the question of the reappointment near the Government of Ethiopia of an official representative of the United States, I am pleased to inform Your Highness that, upon the receipt of Mr. Totten's account of his visit to Your Highness's capital and on the recommendation of my Secretary of State, I proposed to the Congress of the United States the appropriation of funds for the salary of a Minister Plenipotentiary and Envoy Extraordinary to Ethiopia to be available as from July first, 1927, the beginning of this Government's next fiscal year. Therefore, should this proposal be favorably acted upon by the Congress, it is my intention to take the necessary further steps in this matter.

In informing Your Highness regarding these matters, I desire again to assure you of my own good wishes and of my sincere desire to promote, in so far as I may be able, the cordial understanding now happily existing between our two governments and peoples.

Your Good Friend,

CALVIN COOLIDGE

By the President:

JOSEPH C. GREW,

Acting Secretary of State.

WASHINGTON, February 3, 1927.

125.0084/40

The Vice Consul at Aden (Park) to the Secretary of State

[Extract]

No. 220

ADEN, May 11, 1927.

[Received June 4.]

SIR: I have the honor to enclose herewith two sealed envelopes addressed by His Imperial Highness, Ras Tafari Makonnen, Regent of the Empire and Heir to the Throne of Ethiopia, to President Coolidge, with regard to the question of the proposed establishment of an American Legation at Addis Ababa. Copies of the French version of these letters were received from the Prince Regent, and it seemed advisable, for the possible convenience of the Department, to append hereto copies of the French and translations of the same into English.⁸

I have [etc.]

J. LODER PARK

⁸ Second letter not printed.

[Enclosure—Translation]

*Ras Tafari Makonnen, Prince Regent of Ethiopia, to
President Coolidge*

MR. PRESIDENT: We have the honor to acknowledge the receipt of your esteemed letter dated February 2 [3 ?], 1927, in which we were, with the greatest pleasure, given to understand that your Department of State has decided upon the establishment of an American Legation at Addis Ababa, a decision for which we thank you, Mr. President, very profoundly.

We take this occasion to reiterate to your Excellency that we have always hoped for the establishment of an American Legation at Addis Ababa, in the absolute certainty that it would contribute towards serving the highest interests of our peoples, and we have the joy of knowing that your Excellency has been so good as to lend your aid towards the realization of a wish so dear to us. We are fortunate in being able to assure you that the establishment of an American Legation will be a connecting link even more binding than before, which will strengthen the already old friendship between Ethiopia and the United States, and, the event occurring under your auspicious Presidency, it will be an indelible remembrance attached to your noble name.

We beseech the Supreme God, that he deign to accord you a long and fortunate life, that happiness and prosperity may forever unite over your noble and great people, and we would ask you, Mr. President, to accept the assurance of our sentiments of high consideration.

[SEAL]

TAFARI MAKONNEN

*Regent of the Empire, Heir to the
Throne of Ethiopia*

ADDIS ABABA, 22nd of Mazia, 1919 (April 30, 1927).

125.0084/40

The Secretary of State to the Vice Consul at Aden (Park)

WASHINGTON, August 6, 1927.

SIR: Referring to your despatch No. 220 of May 11, 1927, in the matter of the proposal for the reestablishment of American representation at Addis Ababa, and to the informal reply addressed to you under date of June 27, 1927, by the Chief of the Department's Division of Near Eastern Affairs,⁹ the Department now encloses the President's reply to the two communications from the Prince Regent of Ethiopia which were transmitted with your despatch. An office

⁹ Not printed.

copy of the President's reply and a copy for the files of your Consulate are also enclosed.

The office copy should be forwarded to the appropriate office of the Ethiopian Government and the original letter transmitted to the Ras Tafari in the manner which may be most agreeable to His Imperial Highness.

I am [etc.]

For the Secretary of State:

W. R. CASTLE, JR.

[Enclosure]

President Coolidge to Ras Tafari Makonnen, Prince Regent of Ethiopia

GREAT AND GOOD FRIEND: The receipt of Your Highness's two letters of April 30, 1927, has afforded me great pleasure, and I desire particularly to express the satisfaction which I feel upon learning of your continued interest in the reappointment of an American representative at Addis Ababa as well as of the friendly esteem in which Your Highness is so good as to hold Mr. James Loder Park, the American Vice Consul at Aden.

As Your Highness is already aware, I was pleased, upon the recommendation of my Secretary of State, to propose to the last Congress, prior to its adjournment, the appropriation of the necessary funds for the salary of a minister plenipotentiary and envoy extraordinary to Ethiopia. It is, therefore, with sincere regret that I must inform Your Highness that the Congress failed to take favorable action on my proposal. This action, I may add, appears to have been based primarily on the program of strict economy which characterized the financial policy of the last Congress, a program which laid particular emphasis on the curtailment of the administrative expenditures of the Government.

I am, at the same time, pleased to inform Your Highness that I do not consider this action of the Congress as in any way indicative of a desire on its part that I should not proceed in this matter under the law of the United States providing that within the discretion of the President any Foreign Service officer may be appointed to act as commissioner, chargé d'affaires, minister resident, or diplomatic agent. Consequently, it is my present intention, upon the reconvening of the Congress next fall, in consultation with my Secretary of State, to select and to appoint, by and with the advice and consent of the Senate, a meritorious officer of the Foreign Service to act as Minister Resident and Consul General of the United States near Your Highness's Government. I am pleased to hope, therefore, that before another year has passed, we shall see realized our common

desire for the reestablishment of official American representation at Your Highness's capital.

I am happy to avail myself of this opportunity to convey anew to Your Highness the expression of my own good wishes for your personal welfare and for the prosperity of Ethiopia.

Your Good Friend,

CALVIN COOLIDGE

By the President:

FRANK B. KELLOGG,

Secretary of State.

WASHINGTON, July 26, 1927.

123 So 8/137b: Telegram

The Secretary of State to the Vice Consul at Aden (Park)

WASHINGTON, October 17, 1927—8 p. m.

Send following telegram verbatim in English to Ras Tafari:

"I am directed by my Government to inform Your Highness that the President of the United States has been pleased to approve a proposal for the appointment of Mr. Addison E. Southard to act as Minister Resident and Consul General of the United States of America at Addis Ababa. My Government would be pleased to learn that this appointment is agreeable to Your Highness. I am directed to add that in its selection of Mr. Southard my Government has been largely influenced by the belief that as a result of his former service at this post he is known personally to Your Highness and has been fortunate enough to have gained Your Highness's friendly esteem. Mr. Southard is at present serving as American Consul General at Singapore, Straits Settlements, a position to which he was appointed after more than ten years service in the Department of State and at consular posts abroad."

Telegraph substance of Prince Regent's reply.

KELLOGG

125.0084/46

*Ras Tafari Makonnen, Prince Regent of Ethiopia, to President Coolidge*¹⁰

ADDIS ABABA, October 22, 1927.

[Received November 17.]

GREAT AND GOOD FRIEND: I have to acknowledge the receipt of your friendly letter dated July 26th. 1927,¹¹ for which I thank you.

I sincerely regret to learn the delay of the re-establishment of an

¹⁰ Printed from a translation that accompanied the original Amharic text.

¹¹ *Ante*, p. 593.

official American representative in my Capital; your Excellency may be sure that my desire was to see the representative of the United States of America sometime this year, and I was anxiously awaiting his arrival, when I may welcome him in due course.

As your Excellency is already aware, that the question of an American Minister of being sent to Addis-Ababa will be to strengthen the friendship which exists between both the Government[s], I therefore expect undoubtedly that the Congress will take successful [*favorable*] action in this matter as little [*soon*] as possible and send up the representative here.

Your Good Friend

[SEAL] [TAFARI MAKONNEN]

123 So 8/140 : Telegram

The Vice Consul at Aden (Park) to the Secretary of State

ADEN, October 24, 1927—11 p. m.

[Received October 25—2:39 a. m.]

Referring to Department's telegram of October 17, 8 p. m. I have just received a telegraphic communication from Ras Tafari stating that he is greatly pleased that Mr. Southard whom he counts as a personal friend of long standing has been selected to establish the new Legation at Addis Ababa.

PARK

123 So 8/155b

The Secretary of State to the Appointed Minister Resident and Consul General in Ethiopia (Southard)

WASHINGTON, December 1, 1927.

SIR: The President having appointed you "to act as" Minister Resident and Consul General of the United States to Ethiopia, I enclose your commission.¹²

I enclose also a letter of credence, with office copy, addressed to the Prince Regent, together with an identical letter and office copy addressed to the Empress,¹² it not being clear to the Department to which of these Imperial persons your letter should be presented. You will, of course, be able to resolve this question following your arrival at Addis Ababa, and you will, naturally, present only one of the two letters.

You will note that the opening sentence of your letter of credence reads, in part, to the effect that the President has chosen you to reside

¹² Not printed.

near the Government of Ethiopia, "in the quality of" Minister Resident and Consul General of the United States. The difference in wording thus appearing in your commission and letter of credence is rendered desirable by the phraseology of Section 17 of the Act of May 24, 1924, which reads as follows:

"That within the discretion of the President, any Foreign Service officer may be appointed to act as commissioner, chargé d'affaires, minister resident, or diplomatic agent for such period as the public interests may require without loss of grade, class, or salary: PROVIDED, however, That no such officer shall receive more than one salary."

It is held by the Department that, in accordance with the provisions of this section, you must, when performing the duties of your new position, be technically considered to be only acting as Minister Resident and Consul General. It is not, however, the Department's intention that you should sign yourself as "Acting Minister Resident and Consul General" except when submitting your official accounts; nor is it the Department's intention so to address you. For all practical purposes, therefore, with the one exception already noted, you may consider yourself and you should sign all official correspondence as "Minister Resident and Consul General."

As you are doubtless aware, American interests in Ethiopia have since 1914 been formally under the protection of a British Legation at Addis Ababa. It would seem, therefore, that, on your arrival at your post, unless the informal reception accorded you by the Ethiopian Government would indicate the desirability of a contrary procedure, you should seek, through the intermediacy of the British Minister, an informal conference with the Foreign Secretary of the Ethiopian Government, and that you should, at the same time, in accordance with the general practice in such matters, address to the Foreign Secretary, in your own name, a formal note communicating the fact of your appointment and requesting the designation of a time and place for presenting your letter of credence. With such a note you would, of course, transmit the open office copy of your letter of credence. In any event, in view of the courtesy extended to this Government by the British Government in permitting its representative in Ethiopia to undertake during the past twelve years the protection of American interests in that country, it is desired that you consult with the British Minister regarding the procedure which you should follow in this matter. In this connection it will be of interest to you to know that on October 18, last, following the issuance of your commission, Assistant Secretary Castle informed Mr. Chilton of the British Embassy in Washington of this Government's decision to reestablish its mission at Addis Ababa, explained that your *agrément* would be requested through the American Consulate

at Aden, and expressed this Government's cordial appreciation of the courtesy shown by the British Government in permitting its representatives in Ethiopia to take charge of and protect American interests. It is desired that you refer to this matter in an early conversation with the British Minister following your arrival at Addis Ababa reiterating in appropriate form your Government's expression of appreciation.

On the occasion of presenting the original of your letter of credence you should, provided you find it the custom to do so, make a brief address pertinent to the occasion. This address should be written and spoken in English. Before the day fixed for your audience you should furnish the Foreign Secretary a copy of your proposed remarks in order that a suitable reply thereto may be prepared. A copy of the address and of the reply should be sent to the Department.

Your salary will, of course, be that to which you are entitled as a Foreign Service officer of the class to which you are or may be appointed. In this connection it will be of interest to you to know that, on the recommendation of the Secretary of State, based on the reports submitted to the Department by Consul General Totten on the occasion of his visit to Addis Ababa during the months of April and May 1926, the President proposed to the last Congress the appropriation of \$10,000 for the salary of a Minister Plenipotentiary and Envoy Extraordinary to Ethiopia; that, on the basis of subsequent hearings before the House Appropriations Committee the item in question was not included in the Department's appropriations for the current fiscal year; but that, with the informally expressed concurrence of certain members of the Senate Committee on Foreign Relations, the Department recommended to the President, in accordance with the provisions of the Act of May 24, 1924, above quoted, the appointment of a Foreign Service officer to act as Minister Resident and Consul General; and that the President concurring in such recommendation, your appointment was proposed by the Secretary and your commission signed by the President. For your further information in this connection, there are enclosed copies of Mr. Totten's reports of April 22¹³ and May 22, 1926, together with copies of pertinent extracts from the Department's Monthly Political Reports for February and September 1926 and August and October 1927.¹³

On reaching Addis Ababa you should forward to the Department an account for transportation and subsistence expenses chargeable against the Government as defined and limited by the "Government Travel Regulations," a copy of which is also enclosed.¹³

¹³ Not printed.

En route to your post, however, you should stop at Aden for a sufficient period of time to familiarize yourself with the correspondence exchanged by the Consulate at that place with the Department and with various persons in Ethiopia, including His Highness The Prince Regent and the British Minister, which has to do with American-Ethiopian relations.

While at Aden you should also take over from the Vice Consul in charge at that post the records, archives and supplies of the mission formerly maintained by the American Government at Addis Ababa which are now held by that officer. You will find the items in question listed on the current "Inventory of United States Government Property" of the Aden Consulate. However, should you decide after examination that any of these items are unnecessary to the proper conduct of your office at Addis Ababa, you may in your discretion leave them with the Vice Consul at Aden and report to the Department in due course your action in the premises together with your recommendation as to their eventual disposal.

Your long experience in the Foreign Service makes it unnecessary to give you any general routine instructions. Specific instructions will, of course, be sent you from time to time as required. A special word of caution, however, may not be inappropriate at this time.

In reaching the decision to recommend to the President the re-establishment of American representation at Addis Ababa, the Department was influenced in part by reports which led it to believe that Ethiopia offers today in a more readily accessible manner than ever before a potential field of considerable interest to American commerce and for the investment of American capital, in part by a desire to make possible the obtaining of first hand information from a reliable source regarding the political situation in that country particularly as it is affected by the policies of the principal European powers having special interests therein. In these two fields, the promotion of American interests and political reporting, the Department is confident that your mission will prove of real value. It desires, however, to caution you against too closely identifying yourself with any particular American interest which may call upon your good offices or too strongly supporting its cause with the Ethiopian Government. Caution is likewise urged against too strongly recommending to American interests the opportunities for the investment of capital in Ethiopian enterprises.

The Department has reason to believe that the Prince Regent, whose program of progress and reform has the cordial good-will of this Government, may endeavor to a not inconsiderable degree to enlist your support and assistance in these matters. It is possible also that he may approach you in the matter of obtaining American

fiscal and technical advisors to the Ethiopian Government. Should such prove to be the case, it is desired that you consult fully with the Department. With respect to the question of American advisors, it is pertinent to add that, in the light of the Department's recent and in some respects unsatisfactory experience in connection with the American Financial Mission to Persia,¹⁴ you are expected to exercise more than ordinary care and circumspection.

The Lake Tsana dam project,¹⁵ mentioned in the Monthly Political Report for October 1927,¹⁶ is a further case in point. While the Department would wish you to further the realization of this project by communicating, through it, to the interested American corporation (J. G. White and Company of New York City) all pertinent information which may come to your attention at Addis Ababa, you should carefully bear in mind that the construction of the Lake Tsana dam has political implications in which this Government does not desire to become involved.

The foregoing is intended to be suggestive only of the Department's attitude towards your mission, an attitude with which it is believed you are already familiar but which it was desired to emphasize at this time. I am confident that the affairs of the Legation and Consulate General will prosper at your hands and that the ties of friendship which now unite the Government of Ethiopia with that of the United States will be strengthened in no small measure during your incumbency of office.

I am [etc.]

FRANK B. KELLOGG

PROJECT FOR CONSTRUCTION OF A DAM AT LAKE TSANA

701.8411/6

*Memorandum by the Chief of the Division of Near Eastern Affairs
(Shaw)*

[WASHINGTON,] September 14, 1927.

Memorandum of Conversation With the Secretary at Which Were Present Dr. C. Martin,¹⁷ Lieut. Masfan,¹⁸ Mr. Harrison Osborne¹⁹ and Mr. Shaw

By way of explaining his mission, Dr. Martin handed to the Secretary a translation of the letter from the Prince Regent of Ethiopia to the President,¹⁶ as well as a copy of the remarks which Dr.

¹⁴ See vol. III, pp. 523 ff.

¹⁵ See *infra*.

¹⁶ Not printed.

¹⁷ Representative of the Ethiopian Government on special mission in the United States.

¹⁸ Private secretary to Dr. Martin.

¹⁹ New York lawyer, acting as legal adviser to Dr. Martin.

Martin proposes to make if and when the President receives him.²⁰ The Secretary read these documents and said that he would ask the President to receive Dr. Martin.

Dr. Martin took up the matter of our sending a diplomatic representative to Addis Ababa and was informed by the Secretary that we intended in the very near future to send a good Foreign Service Officer to act as Minister Resident and Consul General at Addis Ababa. In this connection, the Secretary referred to the letter which the President had addressed on this subject to the Prince Regent within the past two months.²¹

Dr. Martin, with Mr. Osborne's assistance, then explained the proposal which he hoped to make to appropriate commercial interests in this country for the building of a dam at Lake Tsana. He referred to the desire of the British to build this dam themselves and also a road from the Lake to the Sudan boundary. He explained that the Ethiopians were fearful lest if the British did this work the control of the Ethiopian Government over this part of its territory would be gravely threatened. Dr. Martin asked the Secretary whether the Department would have any objection to his attempts to interest an appropriate American concern or concerns in this project. The Secretary said that we not only had no objection to the project but that we would favor that sort of thing. Dr. Martin then referred to his intention to try and get a loan in this country the proceeds of which would be used for educational work in Ethiopia. He asked whether we would have any objection to such a loan. The Secretary replied that we would have no objection whatsoever. Finally, Dr. Martin brought up the question of obtaining arms and munitions in this country.²² The Secretary said he was not fully informed regarding the effect of applicable international conventions upon Ethiopia's right to purchase arms and munitions abroad. He expressed the opinion, however, that unless Ethiopia by virtue of these conventions had been placed among those countries which could not purchase arms and munitions abroad he saw no difficulty in the carrying out of Dr. Martin's ideas on this subject. It having been suggested that the British, French and Italians had some sort of a control over this matter, the Secretary intimated that he was not inclined to consider the existence of any such control as settling the question.

G. HOWLAND SHAW

²⁰ Not printed.

²¹ Letter of July 26, 1927, *ante*, p. 593.

²² For previous correspondence on this subject, see *Foreign Relations*, 1922, vol. II, pp. 110 ff.

884.6461 Tsana Dam/16a : Telegram

The Secretary of State to the Chargé in Great Britain (Atherton)

WASHINGTON, November 4, 1927—3 p. m.

214. An Associated Press despatch datelined New York November 3 and carried by morning newspapers today reports that the J. G. White Engineering Corporation of New York has negotiated \$20,000,000 contract with the Ethiopian Government for construction of Lake Tsana dam and that London despatches say report has caused considerable surprise in British official circles. You will probably be able to obtain full text of despatch in London.

For your information in this matter and for such use as you may consider advisable:

Martin, mentioned in your despatch 2104 August 19th,²³ was received by me September 14th. Amongst other matters he mentioned that he hoped to interest American capital in this project on the following basis: an American company to float a bond issue sufficient to finance the construction of the dam, the Ethiopian Government to conclude an agreement with the British and Egyptian Governments whereby a fair price would be paid for irrigation water made available by the dam, such payments to cover interest and amortization charges on bond issue. I replied that I saw no objection to his discussing the matter with American capitalists. On October 19th when calling to take leave of me Martin mentioned that he had succeeded in interesting the White interests and that they were disposed to consider undertaking the necessary financing and construction work provided the Ethiopian Government could conclude a satisfactory international agreement. This is all I know of the matter.

Martin sailed for England on the *Olympic* ^{23a} October 29th.

KELLOGG

884.6461 Tsana Dam/17 : Telegram

The Chargé in Egypt (Winship) to the Secretary of State

[Paraphrase]

CAIRO, November 7, 1927—10 a. m.

[Received November 7—7:54 a. m.]

8. Alleged contract of White Company for Tsana Dam has aroused great local interest and numerous inquiries indicate anxiety.

WINSHIP

²³ Not printed.

^{23a} Marginal note on file copy states: "This should have read *Laconia*. NE/GW."

884.6461 Tsana Dam/17 : Telegram

The Secretary of State to the Chargé in Egypt (Winship)

[Paraphrase]

WASHINGTON, November 8, 1927—noon.

28. Your telegram No. 8 of November 7, 10 a. m. For your information and for such guarded use as may be deemed advisable.

According to information given to the Department the following is the proposition made to White and Company: the company to issue bonds for funds with which to build the dam and a motor highway between Tsana and Addis Ababa, the Government of Ethiopia to reach agreement with the Governments of Egypt and Great Britain on a fair price for added irrigation water made available, the price to be high enough to pay for the amortization charges and interest on the bond issue. The Department understands that pending the necessary international agreement no final contract will be signed. The agent of the Ethiopian Government dealing with White and Company is now in London, it is presumed to discuss the subject with the British Foreign office.

KELLOGG

884.6461 Tsana Dam/19

Memorandum by the Chief of the Division of Near Eastern Affairs (Shaw) of a Conversation Between the Secretary of State and the Egyptian Minister (Samy)

[WASHINGTON,] November 8, 1927.

The Secretary asked the Minister whether he had questions to ask on the subject of Ethiopia. The Minister replied that he had. The Secretary inquired as to the nature of the questions. The Minister replied that he wanted to know whether a contract had been signed between Dr. Martin and the J. G. White Company for the construction of the Lake Tsana Dam. The Secretary asked the Minister whether he had any other questions. The Minister admitted that the question he had asked was the particular one of interest to his Government. The Secretary then stated that so far as we were aware no contract had been signed. He explained that Dr. Martin had talked over the Lake Tsana Dam project with the J. G. White Company in New York and he understood that the Company had set down in writing their understanding of the nature of this project and of the manner in which they would, under certain conditions, carry it out. The Secretary added that of course we were delighted to have reputable American concerns go abroad and do business and that that was all there was to it so far as the Department was concerned. The Minister said he could not see that the American Gov-

ernment had anything to do with the matter; that it seemed to be a question between a foreign government and a private American concern. The Secretary emphatically confirmed the Minister's views on this point.

Mr. Shaw was present at the conference.

G. HOWLAND SHAW

SS4.6461 Tsana Dam/20

The Chargé in Great Britain (Atherton) to the Secretary of State

No. 2258

LONDON, November 8, 1927.

[Received November 17.]

SIR: I have the honor to refer to the Department's telegraphic instruction No. 214 of November 4, 3 p. m., 1927, relating to the reported contract for the construction of the Lake Tsana dam by the J. G. White Engineering Corporation of New York, and venture to point out British interest in this proposed construction, as on the water from Lake Tsana depends the economic and agricultural life of the Sudan and, to a lesser extent, the Egyptian Nile lands. Some three or four years ago, at the moment of Ras Tafari's visit to London, it was generally believed that the concession for this construction would be given to the British Government, but I am informed that the alleged British-Italian Treaty of 1925,²⁴ which divided Abyssinia into two spheres of influence, and which, probably due to French advice, was protested before the League of Nations, resulted in such an unfavorable reaction that the concession was withheld from the English.²⁵ In this connection special reference is made to the interesting despatch from the American Vice Consul at Aden, No. 252.²⁶

I discussed the substance of the Department's telegraphic instruction first above referred to at the Foreign Office where I was given to understand that no anxiety was felt as to the possibility of the construction of this dam by an American firm without a satisfactory arrangement having been reached with Great Britain in view of the provisions of the Treaty of Addis Ababa, signed in 1902.²⁷ I am

²⁴ Great Britain, Cmd. 2680, Treaty Series No. 16 (1926): *Notes Exchanged Between the United Kingdom and Italy Respecting Lake Tsana, Rome, December 14/20, 1925.*

²⁵ See Great Britain, Cmd. 2792, Abyssinia No. 1 (1927): *Correspondence Respecting the Agreement Between the United Kingdom and Italy of December 14-20, 1925, In Regard to Lake Tsana.*

²⁶ Of September 5, not printed.

²⁷ Treaty between Great Britain and Ethiopia, signed May 15, 1902; *British and Foreign State Papers, 1901-1902*, vol. xcv, p. 467. Article III reads as follows: "His Majesty the Emperor Menelek II, King of Kings of Ethiopia, engages himself towards the Government of His Britannic Majesty not to construct, or allow to be constructed, any work across the Blue Nile, Lake Tsana, or the Sobat which would arrest the flow of their waters into the Nile except in agreement with His Britannic Majesty's Government and the Government of the Soudan."

informed confidentially from an outside source that the present Ruler, in view of the fact that Abyssinia is not a constitutional country, does not consider himself bound in any way by the Menelek treaty.

The Egyptian Prime Minister, Sarwat Pasha, who was scheduled to leave London last Friday, has delayed his departure, presumably because of this alleged American contract. I am informed that, in spite of British press notices to the contrary, general Egyptian opinion is rather pleased by England's embarrassment, as Egyptians feel certain that Americans would have no desire to create hardships through their control of the dam, and this political weapon is taken away from British hands.

I lunched with . . . today, who informed me confidentially that he had reason to believe the British would not object to the construction of the dam under the American contract, providing provision was made for a satisfactory control of the dam upon the completion of the contract.

Clippings, in quadruplicate, from the local press are forwarded herewith.²⁸

RAY ATHERTON

884.6461 Tsana Dam/21

The Chargé in Great Britain (Atherton) to the Secretary of State

No. 2267

LONDON, November 11, 1927.

[Received November 19.]

SIR: I have the honor to refer to the Embassy's despatch No. 2258 of November 8, 1927, relating to the construction of a dam across the Blue Nile by an American Company, and in this connection to forward press clippings²⁹ containing statements by Dr. Wargneh Martin of Abyssinia who recently returned from the United States, and Sir Austen Chamberlain's remarks in the House of Commons.

I have [etc.]

RAY ATHERTON

[Enclosure 1]

Excerpt From the London "Daily Telegraph," November 10, 1927

Reuter's representative had an interview with Dr. Wargneh Martin, the representative of Abyssinia in the United States, who reached London last evening. Dr. Martin said:

The whole story about the proposed dam is a storm in a teacup and a huge misunderstanding. I am here on private family affairs, and am returning to Addis Ababa in about a week. The excitement only

²⁸ Not printed.

²⁹ Two of the four clippings enclosed with this despatch are printed *infra*.

started after I left New York. All suggestions that I or the Abyssinian Government are trying to arrange something against existing Treaties with Great Britain are absurd. Although I saw the President and the Secretary of State in Washington the question of an Abyssinian dam was never mentioned. My journey to the United States was in order to see New York financiers with regard to the scheme for building a dam, and I have received proposals as regards the conditions on which it can be constructed. If these proposals, which I have in my pocket, and concerning which my Government at present knows nothing, are acceptable, the next step is to consult with the British Government.

For about a quarter of a century Great Britain has had in view the construction of a dam on Lake Tsana, and, on and off, this desire of the British Government has been under the consideration of the Government. It has never been a matter on which the Abyssinian Government has taken the initiative. About six months ago the British Minister at Addis Abeba brought up the question, and renewed the request for a concession to build the dam. It was then that I was sent to the United States to see if I could arrange for its construction by an American firm, under the auspices of the Abyssinian Government. I went to the United States because the financial conditions were better there than elsewhere.

There has never been any question of trying to get behind Treaty obligations with Great Britain, but there has been no necessity to inform the British Government because we have only reached the stage of tentative inquiries, as to the results of which, I repeat, the Abyssinian Government is not even aware. The Abyssinian Government has never had the least intention of interfering with the water supply.

[Enclosure 2]

Excerpt From the London "Times," November 9, 1927

Sir N. GRATTAN-DOYLE (Newcastle, N., U.) asked the Secretary for Foreign Affairs whether he had seen the report that an American company had been granted a concession by the Abyssinian Government which would enable that firm to control the water supplies of Egypt and the Sudan, and if Great Britain had any treaty rights in this important matter.

Sir A. CHAMBERLAIN (Birmingham, W.).—Yes, sir; but I have not as yet received any official information as to the reported negotiations, nor as to the attitude of the Abyssinian Government in the matter. If it had been the case that the Abyssinian Government contemplated the grant of such a concession, without consulting us, this action would constitute a violation of the Treaty of 1902 between his Majesty's Government and the Emperor Menelik, whereby the Abyssinian Government undertook not to construct, or allow to be constructed, such a dam except by agreement with his Majesty's Government and the Government of the Sudan, but I am confident that the Abyssinian Government are not unmindful of this obligation, and this is confirmed by

the interview with Dr. Martin, which appears in this morning's papers. My meeting with the Egyptian Prime Minister and Minister for Foreign Affairs gave me the opportunity to put him in full possession of our views and to take counsel with him on this matter in which the Egyptian Government naturally takes a keen interest.

Sir N. GRATTAN-DOYLE asked if there had been any communication between the Foreign Office and Washington on this matter.

Sir A. CHAMBERLAIN.—If the hon. member means between the British and American Governments, no.

Lieut.-Commander KENWORTHY (Hull, Central, L.) asked if the Government would themselves take steps to barrage the Nile.

Sir A. CHAMBERLAIN.—We have made proposals to the Abyssinian Government with that in view, and the matter is still the subject of negotiations.

Mr. DAY asked what the outlay would be.

Sir A. CHAMBERLAIN.—An estimate was made, but I will not undertake to say whether that estimate can be absolutely relied on. In any case, my memory could not be relied on to repeat the figure without notice.

Mr. KIRKWOOD (Dumbarton, Lab.).—In the event of America not agreeing to our terms, I suppose this Government would be prepared to call on the English boys and the Scottish boys to go and have a war with the Americans.

Sir A. CHAMBERLAIN.—May I be permitted, in the public interest, to say that no question arises between the Government of the United States and His Majesty's Government in this matter, and I anticipate no difficulties between them.

884.6461 Tsana Dam/36

The Chargé in Egypt (Winship) to the Secretary of State

No. 114

CAIRO, November 12, 1927.

[Received December 16.]

SIR: I have the honor to refer to my cable of November 7th, number seven [*eight*], reporting great local interest and certain anxiety regarding the alleged contract with White and Company for the construction of a dam at Lake Tsana; and to acknowledge with expressions of appreciation the Department's cable of November 8th, number twenty-eight, giving the facts in the matter for my information and guidance.

The first Reuter despatch indicated, as shown in last week's press report, (covering despatch No. 108, of November 7th),⁸⁰ that negotiations had been practically concluded between the Ethiopian Govern-

⁸⁰ Not printed.

ment and the J. G. White Engineering Corporation of New York, to build a dam across the Blue Nile at Lake Tsana and sell the Nile water to the Sudan and Egypt. Although later despatches stated that the Anglo-Abyssinian Treaty of 1902 would have to be considered, and that well informed circles in London were sceptical, it also appeared that the above details of the contract were confirmed and that same was entered into with the full knowledge of the American Government.

Considerable excitement and anxiety was at once evidenced in Egyptian official and newspaper circles. Cables were sent to the Egyptian Legation in Washington and London for details, following a special meeting of the Council of Ministers; Sarwat deferred his departure from London and Paris to further discuss the matter; and much time was given to conjecture on the possible results of such a project, and what steps might be taken to protect Egypt's interests. From a British point of view the affair was well timed, in fact the *Kawhat-el-Shark* (Wafd) refers to it as a "A manoeuvre by which England wished to weaken the position of Egypt in the negotiations to solve the pending questions." It was undoubtedly of distinct strategic advantage to the British that at this time the attention of the Egyptian press and public should be diverted from such matters as the opening of Parliament and the airing of grievances to that of a menaced water supply. This obviously gave Premier Baldwin, in his Guildhall speech, an opportunity to emphasize more than ever the importance to Egypt of British help and friendship.

The Arabic and French editorial writers let themselves go in discussing the Dam and the proposed sale of water, "Egypt's water" to the Sudan and Egypt". Above all they criticized the Egyptian Government for its procrastination in obtaining guarantees for the unhampered flow of the Blue Nile waters to Egypt, either by treaties with Ethiopia and England, or through the construction of a dam wholly or partly controlled by the Egyptian Government. It was pointed out sarcastically that now against its will Egypt had no choice but to appeal to England for protection.

There was, however, no unfriendly feeling expressed toward America, although a lurking fear was evidenced as regards the danger of a new political influence in Ethiopia, with America linked with England in a combine to control the head waters of the Blue Nile, to the exclusion of Egypt.

Official and press cables now give the assurance that treaty rights will be regarded, and that England and Egypt will be consulted before the Ethiopian Government concludes an agreement or signs a concession or contract. The keen interest and anxiety in the matter have therefore subsided as quickly as they arose; and it is generally conceded that Dr. Martin was correct in stating that the whole ques-

tion of the Dam has from the first been misunderstood, and caused a tempest in a tea-pot.

It must be observed, however, that a profound impression has been made throughout Egypt, and it is generally believed, with the *Mokattam*, that "Egypt should join in the political arena and defend its vital interests."

I have [etc.]

NORTH WINSHIP

884.6461 Tsana Dam/29

The Chargé in Great Britain (Atherton) to the Secretary of State

No. 2294

LONDON, November 25, 1927.

[Received December 3.]

SIR: I have the honor to refer to the Embassy's despatch No. 2258 of November 8, 1927, and to state that in reply to a question in the House of Commons, asking for further information as to a concession by the Royal Abyssinian Government to an American firm of engineers to construct a barrage on the Blue Nile, Sir Austen Chamberlain replied as follows:

"No, Sir. I have nothing to add to the information which I gave in reply to questions on this subject on Tuesday last, except that I should perhaps have mentioned that, by an exchange of notes between Sir John Harrington and Monsieur Alfred Ilg in 1902, the Emperor Menelik undertook that, other things being equal, preference would be given to the proposals of His Britannic Majesty's Government and the Government of the Sudan; and affirmed that he had no intention of granting a concession in respect of the Blue Nile and Lake Tsana to anyone other than His Britannic Majesty's Government, the Government of the Sudan or one of their subjects. The present position is that on the 22nd September the Regent of Abyssinia addressed to His Majesty's representative at Addis Ababa a reply to the proposal which His Majesty's Government had made to him last May. I have recently instructed Mr. Bentinck by telegram to address a note to Ras Tafari which will carry these negotiations a step further."

I have [etc.]

RAY ATHERTON

884.6461 Tsana Dam/40

Memorandum by the Chief of the Near Eastern Division (Shaw)

[WASHINGTON,] December 9, 1927.

Mr. Gano Dunn, President of J. G. White & Company, and Mr. Osborne called this morning to talk over the matter of the Lake Tsana Dam construction. Mr. Dunn gave me to understand that besides the proposal made to Dr. Martin in writing which Dr. Martin had showed me he (Mr. Dunn) had given Dr. Martin another document

possibly of a more detailed character. In any event, Mr. Dunn said that the proposal had been stated to Dr. Martin in sufficiently definite terms so that if it is accepted by the Prince Regent of Ethiopia a contractual relationship between the J. G. White Company and the Ethiopian Government will then and there be created. From some of Mr. Dunn's remarks I rather gathered the impression at the beginning of our conversation that he proposed to get the concession from the Ethiopia Government and with the basis of this *fait accompli* carry on the necessary negotiations with the British Government. When I ventured the opinion that negotiations on the basis of a *fait accompli* frequently did not run very smoothly Mr. Dunn explained that they had no such intention in mind. He made it clear that if the Prince Regent accepts the proposal which Dr. Martin is carrying with him there will then be what might be described as a contract to enter into a contract subject to certain conditions which would make British cooperation essential. When the Prince Regent signifies his approval Mr. Dunn proposes that J. G. White & Company shall send a representative (probably himself) to Addis Ababa to reach a detailed understanding with the Ethiopian Government. As a result of this visit Mr. Dunn hopes to be able to draw up what is known as the "yellow copy" of a concession. With this "yellow copy" in his possession Mr. Dunn would then proceed to London with a view to securing the necessary approval from the British Government. After this approval has been received the concession would be definitely given and would recite in its terms the approval of the British Government.

Mr. Dunn referred to an article which had appeared in the New York *Evening Sun* of November 10th and which in his opinion reflects the views of the British Foreign Office. This article intimates that the British Government does not object to the construction of the dam by an American concern on the distinct understanding that the dam, once constructed, will be managed by a Board on which the British are suitably represented.

Mr. Dunn asked me if I could tell him whether the British Ambassador had made any representations to the Department concerning the Lake Tsana Dam matter. I replied that so far as I was aware the only reference made by the Ambassador had been an inquiry of a distinctly parenthetical nature addressed to Mr. Castle at the close of a conversation which the Ambassador had with Mr. Castle on an entirely different and unrelated subject. I said that the Ambassador had been informed on this occasion that so far as we were aware no contract had been concluded between the J. G. White Company and the Ethiopian Government. Mr. Dunn said that he was going to see the British

Ambassador at tea this afternoon and that he wanted to talk with him on the matter quite frankly. I said that I saw no possible objection to his doing so. I read to Mr. Dunn the articles of the British-Ethiopian Treaty of 1902 and the British-French-Italian Agreement concerning Ethiopia of 1906 which had to do with the Lake Tsana Dam construction.³¹ He said he was rather bothered by an exchange of notes which he understood had taken place after the 1902 Treaty between the Emperor Menelik's chamberlain and a British representative. According to Mr. Dunn's understanding this exchange of notes bound the Ethiopian Government to let a British concern build the Lake Tsana Dam if the British concern could make as advantageous a proposal as anybody else. It was pointed out to Mr. Dunn that this exchange of notes took place before the conclusion of the 1902 Treaty and since it was not mentioned among the various agreements the existence of which is specifically recognized by Article I of the British-French and Italian Agreement of 1906, there was a good deal to be said against the theory that this exchange of notes is still binding upon the Ethiopian Government. It was pointed out, however, to Mr. Dunn that the exchange of notes had been recently mentioned by the British Foreign Secretary. Mr. Dunn was also informed that the Department had sent to London for the text of the notes in question.

Mr. Dunn made it perfectly clear that in his opinion the cooperation of the British Government will be essential to any plan for the construction of the Lake Tsana Dam. He had no doubt whatsoever that without this cooperation any plan would be financially impossible. I said that we hoped that all parties concerned would examine the question on its merits and that it would not degenerate into a diplomatic quarrel between governments, with treaty provisions being bandied about as weapons. Mr. Dunn gave me to understand that he was in entire sympathy with this point of view. He said that J. G. White & Company was in a particularly strong position to handle the matter in the way I suggested, since they were well known to the British Government and since they maintain many British connections. Their British house, while still retaining the name of J. G. White, is owned by Mr. Booth of the Booth Steamship Lines.

G. HOWLAND SHAW

³¹ Signed at London, Dec. 13, 1906; *British and Foreign State Papers*, 1905-1906, vol. xcix, p. 486.

FRANCE

BRIAND PROPOSAL FOR PACT OF PERPETUAL PEACE BETWEEN THE UNITED STATES AND FRANCE; COUNTERPROPOSAL FOR MULTILATERAL TREATY RENOUNCING WAR

711.5112 France/6

*Statement Made to the Associated Press by the French Minister for Foreign Affairs (Briand), April 6, 1927*¹

[Translation²]

At a time when the thought of the Western World is turning back to the solemn date of the entry of the United States into the War, I address to the American people the heartfelt expression of the very fraternal and trusting sentiments which will always be cherished for them by the French people. I have not forgotten that it fell to my lot to be the first to learn through an official communication from Mr. Sharp, then Ambassador of the United States at Paris, that the Federal Government had come to a decision which would exert such considerable influence in the history of the World War.

Ten years have gone by since the American nation, with magnificent enthusiasm, associated itself with the Allied Nations for the defense of threatened liberties, and in the course of those years the same spirit of justice and humanity has not ceased to inspire our two countries, equally concerned to bring the war to an end and to prevent its return.

France wishes around her an atmosphere of confidence and peace, and her efforts for this are shown by the signing of agreements aimed to remove the threat of conflicts. The limitation of armaments, sought also sincerely by our two Governments, is in response to the ardent wishes of the whole French people, on whom have weighed for more than half a century heavy military charges and who sustained for four years in their territory devastations not yet repaired.

The discussions over disarmament have brought out all the complexity of the technical problem submitted to the examination of experts, but they have served at least to make clear, politically, the common inspiration and identity of aims which exist between France and the United States. Two great democratic nations, devoted to

¹ Copy received by the Department of State from M. Paul Claudel, the French Ambassador, May 28, 1927.

² File translation revised.

the same ideal of peace, are following the same path towards the same end. The divergencies of views which may appear between them bear only on questions of procedure or method. And even where the proposals of France cannot meet those of the United States, they at least make clear to the American people how far France, with the one reservation of her security, is ready to go in the way of accomplishment.

Is it necessary to recall the French proposals at Geneva tending to limit the most dangerous threats of war in the future by the control of the industrial and chemical armaments of states? France went even further when she proposed the international establishment of a "General Staff of Peace". Finally, in the organization of her own national forces, she gives, at this very moment, evidence of her eminently peaceful motives by contemplating the reconstitution of her armament from a purely defensive standpoint. The new military law at the present moment submitted to the French Parliament has indeed been conceived by men most inimical to the danger of militarism. It aims for the first time to "abolish the idea of profitable war" and to place upon all, both men and women, the abominable burden of war, the whole nation thus being placed on guard against a common danger. Does not such organization exclude all aggressive tendency?

More than this or that question of procedure in the technical framing of a project of disarmament, this fundamental question of a policy of peace, that is to say a will for peace and mind for peace, is what truly matters. For disarmament, after all, can only result from the will for peace on the part of the nations of the civilized world. And it is on this point that American thought is always sure to agree with French thought.

For those who devote themselves to this living reality of a policy of peace, the United States and France are already appearing in the world as being morally bound together. If there were any need between these two great democracies to testify more convincingly in favor of peace and to present to the peoples a more solemn example, France would be ready publicly to subscribe, with the United States, to any mutual engagement tending, as between those two countries, to "outlaw war", to use an American expression. The renunciation of war as an instrument of national policy is a conception already familiar to the signatories of the Covenant of the League of Nations and of the Treaties of Locarno. Any engagement subscribed to in the same spirit by the United States with another nation such as France would greatly contribute in the eyes of the world to broaden and strengthen the foundation upon which the international policy of peace is being raised. Thus two great friendly nations, equally devoted to the cause of peace, would give the world the best illustra-

tions of this truth, that the accomplishment most immediately to be attained is not so much disarmament as the practice of peace.

In memory of this tenth anniversary of the entrance of the United States into the war, the American Legion is preparing to make a pious pilgrimage to France where rest its dead and where it will hold its annual convention. I hope that the Legion will come here in as large numbers as possible. They will be welcome. From their too short stay among us they will carry away, I know, the memory of a France at work, as desirous of peace as she has been ardent in war, and widely open to all that is great and generous which makes her heart beat in unison with yours.

711.5112 France/13: Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, May 27, 1927—1 p. m.

[Received May 27—11 a. m.]

217. At his lunch for Lindbergh³ yesterday, Briand told me that he wished in a few days to talk with me about his suggested pact between France and the United States. He said that the reception of the idea was so favorable that it ought to be studied, but that he did not desire to move unless he was in entire agreement with President Coolidge.

HERRICK

711.5112 France/15: Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, June 2, 1927—9 p. m.

[Received June 2—6:30 p. m.]

231. Briand told me this afternoon that this morning his Government authorized him to inquire whether the American Government would be willing to enter upon diplomatic conversations respecting a possible agreement of the nature proposed in his personal statement made on April 6. The favorable reception accorded both in France and the United States to Briand's proposal is the reason for this overture by the French Government. Briand told me that he had noted, however, that possible texts for such an agreement as proposed were beginning to be discussed by various persons and that in order to avoid complications from this source it appeared to him that it might be wise to start conversations between our two Governments if you

³ Charles A. Lindbergh arrived in Paris May 21 on nonstop flight from New York.

entirely concurred. Briand, however, repeated that he did not want to do anything in the matter which would not be entirely agreeable to President Coolidge.

HERRICK

711.5112 France/16 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, June 10, 1927—2 p. m.

172. Your telegram No. 231, June 2, 9 p. m. According to *New York Times* today Briand has made his proposal in definite form and on June 3 gave you a note explaining his idea of how the pact should be framed. It was also stated that the note has been forwarded to Washington.

The Department wishes to be informed whether such a note has been received. If it has, please telegraph summary of contents.

KELLOGG

711.5112 France/17 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, June 11, 1927—11 a. m.

[Received June 11—7:40 a. m.]

246. Your telegram No. 172, June 10, 2 p. m. No such note has been received. My telegram No. 231, June 2, 9 p. m., reports only overture which has been made. Briand will take no further steps until you reply to his proposal.

I have given the press no information.

HERRICK

711.5112 France/19 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, June 11, 1927—11 a. m.

174. Your telegram No. 231, June 2, 9 p. m. You may inform Briand orally that the American Government will be pleased to enter into diplomatic conversations with respect to his proposal. It is suggested that at first these conversations be of an informal nature and that they be carried on through the French Ambassador here when he returns to Washington, as you are soon to return to the United States on leave.

KELLOGG

711.5112 France/20 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, June 14, 1927—11 a. m.

[Received June 14—7:27 a. m.]

248. As Briand is at Geneva, I conveyed orally to Berthelot⁴ substance of your telegram No. 174, June 11, 11 a. m.

HERRICK

711.4112/172a : Telegram

The Secretary of State to President Coolidge

WASHINGTON, June 21, 1927—1 p. m.

The Root treaties of arbitration with Great Britain, Japan and France expire next year between February 27 and August 28.⁵ In view of our agreement to negotiate with France, it might be a good plan to informally sound out the British Government and Japanese Government as to whether they would be inclined to take up similar negotiations. This would dispel any idea that we were willing to negotiate any special agreement with France. British Ambassador has been very curious to know what was going on and I informed him after publishing our statement.⁶ Houghton⁷ is sailing on Saturday. Expect to talk with him on Friday. Should like to know if you approve my sounding out Great Britain and Japan. As to latter, would do it informally through their Ambassador here.

FRANK B. KELLOGG

711.5112 France/28 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

[Paraphrase]

PARIS, June 22, 1927—11 a. m.

[Received 1:30 p. m.⁸]

260. Your telegram No. 174, June 11, 11 a. m. Last night Berthelot sent for me and informed me that your reply was very pleasing to Briand but that as the French Ambassador would not reach Washington until the end of August he thought that was too long a time to delay doing anything toward realizing the proposed agreement.

⁴ Secretary General of the French Ministry of Foreign Affairs.

⁵ Treaty of Apr. 4, 1908, with Great Britain, *Foreign Relations*, 1908, p. 382; treaty of May 5, 1908, with Japan, *ibid.*, p. 503; treaty of Feb. 10, 1908, with France, *ibid.*, p. 331.

⁶ i. e., a press release issued by the Department June 11, based upon the Secretary's telegram to the Ambassador in France, No. 174, June 11, 11 a. m., p. 614.

⁷ Alanson B. Houghton, Ambassador in Great Britain.

⁸ Telegram in two sections.

Briand had, therefore, drafted a suggested text which he wished to have forwarded for your consideration.

The French text Mr. Herrick is taking with him. When he reaches New York he will mail it to you. The following is a translation of the draft:⁹

“Draft of Pact of Perpetual Friendship between France and the United States,

The President of the French Republic and the President of the United States,

Equally desirous of affirming the solidarity of the French people and the people of the United States of America in their wish for peace and in their renunciation of a recourse to arms as an instrument of their policy towards each other,

And having come to an agreement to crystallize in a solemn act these sentiments as much in accord with the progress of modern democracies as with the mutual friendship and esteem of two nations that no war has ever divided and which the defense of liberty and justice has always drawn closer, have to this end designated for their plenipotentiaries, to wit:

The President of the French Republic (blank)

The President of the United States of America (blank)

Who after having exchanged their powers recognized in good and due form have agreed upon the following provisions:

Article 1. The high contracting powers solemnly declare in the name of the French people and the people of the United States of America that they condemn recourse to war and renounce it, respectively, as an instrument of their national policy towards each other.

Article 2. The settlement or the solution of all disputes or conflicts of whatever nature or of whatever origin they may be which may arise between France and the United States of America shall never be sought by either side except by pacific means.

Article 3. The present act shall be ratified. The ratifications thereof shall be exchanged at (blank) as soon as possible and from that time it shall have full force and value.

In witness whereof the above named plenipotentiaries have signed the present act and have thereunto set their seal.

Done at Paris in two copies (each drawn up both in French and English and having equal force) the (blank) 1927.

(Signatures and seals).”

WHITEHOUSE

711.4112/173 : Telegram

The Secretary to the President (Sanders) to the Secretary of State

RAPID CITY, S. DAK., June 22, 1927.

[Received 3:40 p. m.]

Referring to your telegram 1 p. m. June 21st, the President suggests that you talk informally with Great Britain and Japan without commitment.

EVERETT SANDERS

⁹ Text of draft not paraphrased.

711.5112 France/66

Memorandum by the Chief of the Division of Western European Affairs (Marriner)

[WASHINGTON,] *June 24, 1927.*

The text of Mr. Briand's proposals for a Treaty to outlaw war, contained in telegram No. 260, of June 22, 1927, from the Embassy at Paris, a copy of which is attached,^{9a} should be carefully considered from every point of view.

Mr. Briand's insistence that negotiations should begin at once without awaiting the arrival in this country of M. Claudel would seem to indicate that he was most anxious to keep this topic in the public eye most prominently during the meeting of the Naval Conference at Geneva¹⁰ in order to draw attention away from the fact that France is not there represented in a constructive step towards World Peace.

The vague wording and lack of precision in the draft seems also intended to give the effect of a kind of perpetual alliance between the United States and France, which would certainly serve to disturb the other great European Powers,—England, Germany and Italy. This would be particularly true as it would make the neutral position of the United States during any European war in which France might be engaged extremely difficult, since France might deem it necessary to infringe upon our rights as a neutral under this guaranty of non-aggression. A further point which Mr. Briand has not touched on is the question of France's obligations under the Covenant of the League of Nations to aid the League in the punishment of an aggressor state. It might likewise be used internally in France to postpone the ratification of the Debt Settlement and to create a feeling that payment was unnecessary.

In order to avoid this interpretation, it would be incumbent on the United States at once to offer a treaty in the same terms to England and Japan, more especially as we are negotiating with them at the present moment and could hardly wish them to feel that we were entering into an alliance at the same time with another Power.

Certainly a single treaty of this nature, and, according to press despatches, France desires that it be an absolutely unique instrument, would raise the question of an alliance with a country outside the American hemisphere. A series of such agreements, unless it were absolutely world wide, would raise the same objections. All this tends to indicate that it would be best to keep the subject in abey-

^{9a} *Ante*, p. 615.

¹⁰ See vol. I, pp. 1 ff.

ance at least until the conclusion of some agreement in Geneva. However, when the time comes actually to negotiate, it would seem that the only answer to the French proposition would be that, as far as our relations with France were concerned, adequate guarantees were contained in the Bryan Treaty,¹¹ and that if any step further than this were required, it should be in the form of a universal undertaking not to resort to war, to which the United States would at any time be most happy to become a party. Before such a time, treaties of the nature which France suggests become practically negative military alliances.

J. T. MARRINER

711.5112 France/29 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

[Paraphrase]

PARIS, June 26, 1927—noon.

[Received June 26—9:30 a. m.]

265. Briand's Chief of Cabinet informs me that Briand wishes very much to make a statement on July 4 about proposed pact. He believes it a good psychological occasion. Briand would greatly appreciate it if you would convey to him an expression of your views upon the draft which he submitted as he will make no statement not in entire accord with you.

WHITEHOUSE

711.5112 France/31 : Telegram

The Secretary of State to the Chargé in France (Whitehouse)

[Paraphrase]

WASHINGTON, June 27, 1927—1 p. m.

196. Your telegram No. 265 of June 26, noon. I am not now prepared to give any opinion regarding the draft proposed by Briand, and I think it would not be wise for him to make a public statement with respect to the subject.

It is believed here that Briand's proposal is one which should be discussed informally through regular diplomatic channels. Our attitude in this regard has been clearly indicated in my previous messages. There is evidently a disposition on the part of high French officials and certain individuals in private life, apparently in touch with these officials, to put aside diplomatic conversations and to handle the matter in other ways. This creates the decided impression that there are

¹¹ Treaty of Sept. 15, 1914, *Foreign Relations*, 1915, p. 380.

involved considerations and motives quite separate from the merits of the proposal itself. Should these tactics continue to be used, the unfortunate effect may be to render it difficult if not impossible for us to proceed to examine the proposal in an orderly manner. We are not going to be stampeded into making any commitments at all on the subject by public statements by anyone prior to our negotiations. President Coolidge and members of the Cabinet are all away from Washington, and, obviously, most careful consideration should be given to Briand's proposals.

KELLOGG

711.5112 France/34

The Secretary of State to President Coolidge

WASHINGTON, June 27, 1927.

MY DEAR MR. PRESIDENT: AS you remember, on June second Briand told Mr. Herrick that he was authorized by his Government to inquire whether it would be agreeable to the United States to begin diplomatic conversations concerning the possible agreement along the lines indicated in Briand's public statement of April sixth. We responded as follows:

[Here follows text of telegram No. 174, June 11, 11 a. m., printed in paraphrase on page 614.]

Briand thereupon, instead of waiting for his Ambassador to come over here, delivered to Mr. Herrick the proposed form of treaty, which I telegraphed to you.

I have given considerable thought to this question of a treaty. The treaty situation between France, Great Britain, and Japan and the United States is as follows:

(1) Each one of the countries has a treaty, identical in form, known as the Root Treaty which contains the following article:

"Article 1. Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two Contracting Parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Convention of the 29th July, 1899,¹² provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two Contracting States, and do not concern the interests of third Parties."

Article II provides that before any case shall be submitted to arbitration, an agreement for arbitration must be made and ratified by the Senate. These Root Treaties have been renewed from time to time and expire as follows: with France, February 27, 1928; with Great Britain, June 4, 1928; and with Japan, August 24, 1928.

¹² *Foreign Relations*, 1899, p. 521.

(2) We have the so-called Bryan Treaties with Great Britain¹³ and France but *not* with Japan. As you remember, these treaties simply provide for a Commission of Conciliation and the parties agree not to resort to any force during the investigation to be made by the Commission and before its report is handed in, which term must be within one year.

(3) I discussed this whole subject of Briand's proposal with Senator Borah before he left. However, at that time I did not have Briand's specific proposal of the form of a treaty. In a general way Borah said he had seen the proposed treaty of Professor Shotwell of Columbia and also the one proposed by the American Foundation and that he did not believe either one was practicable. I will not go into the details of these treaties but I am sure in that respect that Borah is correct. For instance, the Foundation treaty provides for arbitration on every question, whether it is a political question or a legal question. The Shotwell treaty is not as broad and in some respects follows much nearer the Root treaties. Of course, Senator Borah said we should be prepared to renew the Root treaties with all three countries. I asked him if he thought the Senate would ratify the Root treaties for compulsory arbitration of questions of a legal nature or relating to the interpretation of treaties without the proviso that the questions do not affect the vital interests, the independence or the honor of the two contracting states and do not affect the interests of third parties. He said that personally he rather favored compulsory arbitration of purely legal questions, that is, questions arising under a treaty or well established principles of international law but that he doubted very much whether the Senate would ratify a treaty going that far. I am rather inclined to think the Senate would not although I believe this country could afford to make such a treaty. It is useless, however, to make a treaty, and probably would do harm, which the Senate would turn down.

The Bryan treaties are still in force with Great Britain and France but Japan never made a treaty with us like the Bryan treaty, although it was proposed to them. As I presently view the matter, I do not see how we can go much beyond a renewal of the Root Treaties in view of the fact that the Bryan Treaties go on permanently and, of course, we could again ask Japan to go into a similar treaty.

This morning I received a very confidential telegram from Sheldon Whitehouse, Chargé in the absence of Herrick, a paraphrase of which I enclose.¹⁴ I also enclose you a paraphrase of my answer.¹⁵ I am satisfied from Briand's desire to make a speech on this subject and

¹³ Treaty of Sept. 15, 1914, *Foreign Relations*, 1914, p. 304.

¹⁴ No. 265, June 26, noon, p. 618.

¹⁵ No. 196, June 27, 1 p. m., p. 618.

from the fact that he is giving out the substance of every communication he makes to us that all he is doing now is trying to create a public sentiment during the session of the Disarmament Conference and I do not think we ought to play into his hands in that way. I have not yet mentioned the question of a treaty to the Japanese Ambassador and, if I do, I think I shall confine myself to a suggestion about the extension of the Root Treaty and possibly mention the fact that we would be willing to sign a treaty the same as the Bryan Treaties and see what reaction we get. It is reported in Geneva that Japan is going to propose to us a discussion of a new treaty along the lines of Briand's proposal but we know nothing about that beyond the rumors. Of course, the public can see no reason why the United States should not agree with Great Britain and Japan or any other country not to make war. Such a treaty would have no effect unless there was established machinery for arbitrating or adjusting the questions arising between these countries. As Borah said the other day—what is the object of making a treaty that we will not go to war if there is no machinery to settle the questions which bring on war?

I shall make no answer to France at this time, certainly not until the matter has been carefully considered by you and I am now inclined to think not until you return and can submit the matter to the Cabinet. However, I thought I would mention these various treaties and lay before you the situation as it now exists.

Faithfully yours,

FRANK B. KELLOGG

711.5112 France/35

President Coolidge to the Secretary of State

RAPID CITY, S. DAK., June 29, 1927.

[Received July 5.]

MY DEAR MR. SECRETARY: Thank you for your letter of the 27th, which I have read with care. I approve of the conclusions you have reached.

Very truly yours,

CALVIN COOLIDGE

711.5112 France/42

The Chargé in France (Whitehouse) to the Secretary of State

PARIS, June 29, 1927.

[Received July 9.]

MY DEAR MR. SECRETARY: Immediately upon receipt of your telegram of June 27th, I called upon M. Leger, Briand's Chief of Cabinet,

and told him that you were not prepared at this time to express any opinion on the draft of the treaty and that you thought it would be unwise for Briand to make any public statement on this subject. Leger readily acquiesced and said he would tell Claudel, who is making a speech at the 4th of July banquet, to avoid any reference to it.

There is no desire, so far as I can see, on the part of the French Government to sidetrack the informal diplomatic conversations you suggested, since on every occasion on which the subject has been mentioned, Briand, Berthelot and Leger have always said that they did not wish to make any move except with your entire concurrence. I feel, however, that a fear exists in French circles that the plan may be ruined by the interference of some of our too zealous compatriots, not to mention any names, and that the greater the delay in governmental action the more time for speeches and press comment which may prove embarrassing. It is, in my opinion, for this reason that Briand presented a draft for your consideration. He hoped it would meet with your approval, and if it did, he apparently thought that the 4th of July would be a good occasion on which to say so. That I think is all there is to the recent French moves.

Believe me [etc.]

SHELDON WHITEHOUSE

711.5112 France/40

The Secretary of State to the Ambassador in Japan (MacVeagh)

No. 229

WASHINGTON, July 7, 1927.

SIR: For your information I desire to state that on June 30, the Japanese Ambassador, during the course of a call at the Department, in reply to an inquiry, stated that he had seen Mr. Briand's proposals for a treaty with the United States but that he did not fully understand the purport of the French suggestions. I said that, while we had not yet had them absolutely clarified, Mr. Briand's original statement that he desired to make a treaty to outlaw war seemed to be the basis of any proposal which France might make; that we already had a Treaty of Arbitration (Root Treaty) with France which would expire during February, 1928, and likewise a Treaty for the Advancement of Peace (Bryan Treaty) which would remain in force indefinitely unless denounced; that we had this same type of treaties with Great Britain, and an Arbitration Treaty alone with Japan, which would expire in August, 1928. I added that the United States would, of course, not make any treaty with France which it would not be willing to offer to Japan and Great Britain, and that I would like the Ambassador to inform his Government that they might care to be looking into any proposals with regard to the renewal of the Root Treaty next summer, and if they so desired,

to conclude a treaty along the plan of the Bryan Treaty which would enhance the good relations between Japan and the United States.

The Ambassador expressed his gratification at this statement and said that the delegates in Geneva had denied in the press that they had instructions on this subject and that of course it was entirely a separate subject from the Conference in Geneva but that it was gratifying to know that no special alliance was contemplated by the United States.

I am [etc.]

FRANK B. KELLOGG

711.5112 France/43 : Telegram

The Secretary of State to the Chargé in France (Whitehouse)

[Paraphrase]

WASHINGTON, July 13, 1927—1 p. m.

209. You may confidentially and orally inform Briand that last week Mr. Herrick personally delivered to me the draft text referred to in your telegram No. 260 of June 22 and discussed the subject with me. You may say that I am carefully considering the matter but still feel that conversations of the nature indicated in my telegram No. 174 of June 11 are appropriate and desirable in the first instance and that it seems wise to me to await such conversations, although I sincerely regret the delay. With President Coolidge and most of the Cabinet members out of Washington and with both the American and French Ambassadors absent from their posts, obviously there are serious practical difficulties in the way of anything more during the next few weeks than a conscientious study of the proposal. Of course such a study will be made. I wish, however, to assure Briand that I deeply appreciate his high motive in making the proposal and that I believe it entitled to serious and sympathetic study.

KELLOGG

711.5112 France/51

*The Secretary of State to the Ambassador in Great Britain
(Houghton)¹⁶*

No. 1009

WASHINGTON, July 15, 1927.

SIR: The British Ambassador called on me on July 6th and asked if I could give him any further information about the proposed treaty with France. I told him no, there was nothing new; that I had received Briand's suggestions which were simply that the United States and France would not go to war. I told him that I had not

¹⁶ The same on the same date to the Chargé in France.

yet given the subject careful consideration, for want of time; that as he understood, we had two treaties with Great Britain—the Root arbitration treaty and the Bryan treaty; that we had the same with France and that the Root treaty with France expired on the 27th of February, 1928, and with Great Britain on June 4th, 1928; that we had no Bryan treaty with Japan but were willing to make one; that we had a Root treaty with Japan expiring in August, 1928; that I thought we had a Root treaty with some other countries but I was not sure and would ask to have it looked up; that we had Bryan treaties with a good many countries, probably twenty-five or thirty.

I said that we would not desire to make any treaty with France which we would not be willing to make with Great Britain, Japan or any other country. I asked him if his government would be willing to discuss the subject of the renewal of the Root treaty and any further treaty provisions which might be considered advisable. He wanted to know if that was at the same time we discussed it with France and I said yes. He said he would inquire of his government. I told him that I had asked you to inquire of Sir Austen very confidentially and I impressed upon him that at the present the matter was very confidential and that I expect to hear from you first; that you had been here and I had had a chance to discuss it with you. I told him I was not prepared to say what kind of a treaty we could make but I thought we should renew the Root treaty.

I am [etc.]

FRANK B. KELLOGG

711.5112 France/48

*The Secretary of State to the Ambassador in Japan (MacVeagh)*¹⁷

No. 235

WASHINGTON, July 20, 1927.

SIR: On July 7, the Japanese Ambassador called upon me to inquire if there were anything new about negotiations with France or with the treaty suggested by Briand. I told him there was not; that I had received the suggestion of Briand, the substance of which was that neither country would make war against the other; that I would keep him informed as to any negotiations. He said that he would like to be informed because he thought his Government ought to be considering the whole subject of renewal of the Root Treaty or any other treaty that would make for peace and also the subject of the Bryan treaty. I assured him that I should be very glad to have his Government consider the subject and we would do the same and that we would not, of course, make a treaty with France that we would not be willing to make with Japan.

I am [etc.]

KELLOGG

¹⁷ The same on the same date to the Chargé in France.

711.5112 France/49 : Telegram

The Secretary of State to the Chargé in France (Whitehouse)

WASHINGTON, July 25, 1927—4 p. m.

220. My 209, July 13, 1 p. m. Yesterday's Washington *Star* contains the following story, dated July 23, sent by the *Chicago Daily News Service* from Paris:

"The Quai d'Orsay is curious over the fact that no reply or even acknowledgment has as yet been received from Washington in regard to the treaty abolishing war between France and the United States, a draft of which was cabled to the State Department from Paris a month ago. The French text was a tentative draft on which it was presumed negotiations could be begun. It was carefully written by experts of the Foreign Office.

The idea of such a perpetual anti-war treaty was originally presented to the foreign office from several independent sources and was immediately acted upon.

The French realize President Coolidge is away from Washington and Secretary of State Kellogg is busy with the Navy Disarmament Conference, yet they would appreciate a brief acknowledgment."

[Paraphrase.] The above information is incorrect as you were instructed to acknowledge to Briand the receipt of the draft text which Mr. Herrick delivered to me. Please find out whether Foreign Office gave out information of this kind. I believe it would be well for the Foreign Office to clear up with the press any misunderstanding on this matter.

KELLOGG

711.5112 France/50 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

[Paraphrase]

PARIS, July 26, 1927—noon.

[Received July 26—10:15 a. m.]

289. Your telegram No. 220 of July 25. Ever since Briand's return from Geneva he has been down in the country except when he has come to Paris on brief visits to attend Cabinet meetings. I communicated your telegram 209, July 13, 1 p. m., to M. Leger, Briand's Chief of Cabinet. When I saw Leger this morning he assured me that the Foreign Office had given out no statement of any kind with respect to the proposed treaty. Leger added that he saw a correspondent of the *Chicago Daily News* several days ago. Leger said he rather expected the correspondent to question him about the treaty but he did not do so, his purpose being to gain information concerning the Vienna riots.

WHITEHOUSE

800.51 W 89 France/507

*Memorandum by the Secretary of State of a Conversation With the
French Ambassador (Claudel)*

[Extract]

WASHINGTON, September 14, 1927.

He then said that he had no instructions but that he had talked with Briand about the treaty outlawing war and wished to know if Mr. Herrick had talked with me about it. I told him Mr. Herrick brought the proposed Briand treaty and gave it to me but that I had very little chance for conversations with him about it; that he then went home to Cleveland and was operated on and I had no opportunity to see him since; that at that time the President was in the West and I had no chance to discuss it with him; that since he had returned I had been very busy with matters exceedingly pressing and I did not think I would be able to discuss the matter with the President until after my return from the West, which would probably be within a week or ten days—certainly before the first of October.

711.5112 France/77

*The Secretary of State to the French Ambassador (Claudel)*¹⁸

WASHINGTON, December 28, 1927.

EXCELLENCY: I have the honor to refer to the form of treaty entitled "Draft of Pact of Perpetual Friendship between France and the United States", which His Excellency, the Minister of Foreign Affairs was good enough to transmit to me informally last June through the instrumentality of the American Ambassador at Paris.

This draft treaty proposes that the two Powers should solemnly declare in the name of their respective Peoples that they condemn recourse to war, renounce it as an instrument of their national policy towards each other, and agree that a settlement of disputes arising between them, of whatsoever nature or origin they may be, shall never be sought by either party except through pacific means. I have given the most careful consideration to this proposal and take this occasion warmly to reciprocate on behalf of the American people the lofty sentiments of friendship which inspired the French people, through His Excellency M. Briand to suggest the proposed treaty.

¹⁸Copy transmitted in telegraphic circular, Dec. 28, 1927, 8 p. m. (not printed), to the Embassies in France, Germany, Great Britain, Italy, and Japan, and to the Legation in Switzerland, with instructions not to release to the press until further instructions. The text of the note was released in Washington for the press Jan. 4, 1928, and the missions listed above were instructed by telegraph, Jan. 3, 1928, 1 p. m., to release the text promptly.

The Government of the United States welcomes every opportunity for joining with the other Governments of the world in condemning war and pledging anew its faith in arbitration. It is firmly of the opinion that every international endorsement of arbitration, and every treaty repudiating the idea of a resort to arms for the settlement of justifiable disputes, materially advances the cause of world peace. My views on this subject find a concrete expression in the form of the arbitration treaty which I have proposed in my note to you of December 28, 1927,¹⁹ to take the place of the arbitration convention of 1908. The proposed treaty extends the scope of that convention and records the unmistakable determination of the two Governments to prevent any breach in the friendly relations which have subsisted between them for so long a period.

In view of the traditional friendship between France and the United States—a friendship which happily is not dependent upon the existence of any formal engagement—and in view of the common desire of the two Nations never to resort to arms in the settlement of such controversies as may possibly arise between them, which is recorded in the draft arbitration treaty just referred to, it has occurred to me that the two Governments, instead of contenting themselves with a bilateral declaration of the nature suggested by M. Briand, might make a more signal contribution to world peace by joining in an effort to obtain the adherence of all of the principal Powers of the world to a declaration renouncing war as an instrument of national policy. Such a declaration, if executed by the principal world Powers, could not but be an impressive example to all the other Nations of the world, and might conceivably lead such Nations to subscribe in their turn to the same instrument, thus perfecting among all the Powers of the world an arrangement heretofore suggested only as between France and the United States.

The Government of the United States is prepared, therefore, to concert with the Government of France with a view to the conclusion of a treaty among the principal Powers of the world, open to signature by all Nations, condemning war and renouncing it as an instrument of national policy in favor of the pacific settlement of international disputes. If the Government of France is willing to join with the Government of the United States in this endeavor, and to enter with the United States and the other principal Powers of the world into an appropriate multilateral treaty, I shall be happy to engage at once in conversations looking to the preparation of a draft treaty following the lines suggested by M. Briand for submission by France and the United States jointly to the other nations of the world.

Accept [etc.]

FRANK B. KELLOGG

¹⁹ Not printed in the *Foreign Relations* volumes for 1927.

711.4112 A/2

The Secretary of State to the Chargé in Great Britain (Atherton) ²⁰

No. 1218

WASHINGTON, December 28, 1927.

SIR: I desire to inform you that the British Ambassador in Washington called on me on December 15, 1927, and that the following conversation ensued on the subject of the Briand proposal and its general relationship to the Root arbitration treaties:

The British Ambassador asked me if I could give him any information about the negotiations with France over Briand's proposal. I told him there was nothing definite yet; that, as he remembered, the Root treaties ran out in 1928 and I thought they ought to be renewed. I explained to him that I had hoped to be able to get a form of treaty which I could present to Great Britain, France and Japan at least, and perhaps to other countries, for the renewal of the Root arbitration treaties; that it seemed to me we could afford to arbitrate purely legal questions, that is, questions subject to judicial determination under international law or the construction of treaties but that no country would arbitrate a political question or a question pertaining to its sovereign domestic jurisdiction, like tariff, taxation, immigration and many other things. He said certainly not. I told him there was only one clause in the Root treaties which seemed to be very indefinite and that was a proviso as follows: "Provided, nevertheless, that they do not affect the vital interests, the independence or the honor of the two Contracting States"; that nobody knew what that meant and it seemed to me that a reservation in the treaty that there should be no arbitration of a political or domestic matter made in the broadest terms would cover that matter; that the arbitration of rights under a treaty might be of vital interest; that I did not see how it could affect the independence; a country might think it affected its honor. I told him I also thought there should be a preamble in such a treaty stating that it was the desire of nations to employ arbitration to such international disputes (legal disputes I meant) and thereby lessen the dangers of war or something to that effect, but, of course, I could not tell exactly what kind of a treaty the Senate would approve. He said he thought his Government would approve such a treaty as I had mentioned.

His conversation was entirely informal as I had nothing to present to him.

I am [etc.]

FRANK B. KELLOGG

²⁰ The same on Jan. 6, 1928, to the Chargé in France (No. 2577).

711.5112 France/79 : Telegram

The Secretary of State to the Chargé in France (Whitehouse)

[Paraphrase]

WASHINGTON, December 30, 1927—1 p. m.

378. Ambassador Claudel called on me this morning regarding my note of December 28 to him with respect to Briand's proposed treaty. Claudel said that what France desired was a bilateral treaty with the United States and he is doubtful whether Briand will be willing to consider a multilateral treaty as is now suggested unless it can be clearly explained to him why the United States would not be able to conclude a bilateral treaty. I think you should see Briand and orally inform him that I have strongly felt this way since the idea was first presented and that I have always said that this Government could not enter into a treaty with France that it would not enter into with other powers. American public opinion would not view such a treaty with favor because it looks too much like a treaty of alliance and too short a step toward universal peace. It seems clear to me, for example, that should this Government enter into a treaty of this sort with Germany alone, public opinion in France would be much aroused and would believe that America was practically giving Germany a guarantee against attack. A treaty only between the United States and France could not but affect public opinion in other countries in the same way. Therefore, it would not serve the end of world peace. A multilateral treaty of the nature proposed in my note would, on the contrary, have a profound world-wide influence in promoting the cause of peace.

After you have talked with Briand please cable your impressions at once.

KELLOGG

711.5112 France/76 : Telegram

The Secretary of State to the Chargé in Great Britain (Atherton).

[Paraphrase]

WASHINGTON, December 30, 1927—3 p. m.

227. Department's circular of December 28.²¹ This morning I orally and confidentially informed British Ambassador of contents of note to French Ambassador regarding Briand's proposals. At the British Ambassador's suggestion, you are instructed to read to Sir Austen Chamberlain, as strictly confidential, the text of the note to the French Ambassador. You should not leave a copy of the text.²²

KELLOGG

²¹ See footnote 18, p. 626.

²² In telegram No. 1, Jan. 3, 1928, the Chargé in Great Britain reported that in the absence of Sir Austen Chamberlain, British Secretary of State for Foreign Affairs, he had read the note to Sir Victor Wellesley, Deputy Under Secretary of State.

711.5112 France/80 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

[Paraphrase]

PARIS, December 31, 1927—7 p. m.

[Received January 1, 1928—8:20 p. m.²³]

459. Your No. 378, December 30, 1 p. m. I saw Briand and explained to him your views. He replied that he quite understood but he objected to my using the word "treaty," stating that he did not intend the proposed pact to take the form of a treaty. He agreed that a treaty of this nature would create difficulties for the American Government. The following is a statement of Briand's views:

On several occasions the League of Nations had publicly indicated its belief that all disputes should be settled by pacific means and its opposition to any recourse to war. As far as it went this was good, but such a manifestation would be greatly strengthened by the adhesion of the United States. Briand had believed, therefore, that if America and France should solemnly declare their condemnation of recourse to war on the occasion of the renewal of the 1908 arbitration treaty, it would promote the cause of peace. He believed that such a declaration should be made in a solemn form in view of the ancient friendship between the American and French peoples, but he was quite willing to have the declaration made in the preamble to the act renewing the arbitration treaty. His attitude would be entirely sympathetic if you wished at the same time to draft a protocol outlawing war and to invite the leading states of the world to sign it. Briand stated that he thought from the last telegram sent to him by Ambassador Claudel that we were in agreement as to points of view and that all that remained to be settled were minor details. He said he hoped that you would not make public your note to Ambassador Claudel of December 28 without an understanding between the American and French Governments as to what should be given to the press.

A friend at the Foreign Office privately said to me something that led me to think that Briand is much disappointed at the nature of my reply as he had hoped it was possible to have a bilateral convention. The terms of such a convention obviously could be more explicit than would be the case in a multilateral one. I think Briand now understands our situation and is ready to accept what you can offer him.

WHITEHOUSE

²³ Telegram in two sections.

FRENCH TARIFF DECREE OF AUGUST 30, 1927, AND PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND FRANCE

611.5131/473 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, March 19, 1927—7 p. m.

83. Commercial attaché has reported assurances received concerning position of American commerce under proposed new French tariff. He also inquires regarding possible release of statement.

The question of commercial relations with France and possible negotiations is of considerable importance and the Department desires report from you and recommendations concerning this matter.

KELLOGG

611.5131/513 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, March 22, 1927—6 p. m.

[Received March 22—3:10 p. m.]

128. At the Foreign Office today I was told informally that under the French tariff to be enacted the relative position of American commerce will be maintained for the present. I gathered that this decision had been reached in hope that negotiations might be started soon for a new commercial treaty between the United States and France. Inference was that if such a treaty proved impossible of realization same relative position would not be maintained.

Referring to commercial attaché's inquiry regarding possible statement, it is my opinion that no statement should be released.

HERRICK

611.5131/514 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, March 24, 1927—noon.

[Received March 24—noon.]

130. My No. 128, March 22, 6 p. m. In further conversation on tariff with M. Serruys, Director of Commercial Agreements in the

Ministry of Commerce, the commercial attaché was told that France would welcome a general readjustment of commercial relations which would include both a commercial convention and a consular convention.

M. Serruys feels, however, that new tariff should become law before negotiations are begun.

If you agree that initiation of negotiations should start shortly after enactment of the new tariff I suggest that preliminary studies be made now.

I might point out, however, that while French say that they could give *de facto* most-favored-nation treatment this would not be done by exchange of minimum tariff for minimum tariff, reciprocally, but on basis of special concessions for ascertained concessions. They believe that the adjustments which we shall have to make on our side could be accomplished by taking action under section 315 of Tariff Act of 1922;²⁴ in return for these modifications they would give us their minimum rates on all articles which are of interest to us, or in some rates, perhaps below the minimum set by the law.

Please inform Department of Commerce of foregoing.

HERRICK

611.5131/514: Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, March 26, 1927—4 p. m.

92. Your Nos. 128, March 22, and 130, March 24. It appears that French Government has indicated desire for commercial negotiations between it and the Government of the United States in a manner that warrants this Government in proposing as soon as possible draft of a treaty. The Department is commencing the preparation of a draft treaty similar to those which have recently been made with Germany, Hungary, and Estonia,²⁵ and to those which are under negotiation with certain other countries. Please telegraph Department as soon as possible whether you think next step should be to propose such a treaty draft without further conversations first; also telegraph any suggestions you may wish to make regarding provisions which should be included in treaty of this sort in addition to provisions of above-mentioned treaties.

²⁴ 42 Stat. 858, 941.

²⁵ Treaty between the United States and Germany, signed Dec. 8, 1923, *Foreign Relations*, 1923, vol. II, p. 29; between the United States and Hungary, signed June 24, 1925, *ibid.*, 1925, vol. II, p. 341; between the United States and Estonia, signed Dec. 23, 1925, *ibid.*, p. 70.

Section 315 of the present tariff act is designed to provide the means for adjusting rates according to the ascertained costs of production rather than as a procedure for bargaining. In advance it could not be stated what results would follow the investigation of the cost of production of goods in which France might be interested; it is conceivable that the effect might be to increase instead of to decrease rates.

While further consideration of basis of negotiations is under way, Department doubts the advisability of further informal discussions with any French officials.

KELLOGG

611.5131/515 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, April 1, 1927—5 p. m.

[Received 7:34 p. m.]

149. Department's No. 92, March 26, 4 p. m. It can hardly be stated literally that French Government has indicated desire for commercial negotiations. In my No. 128, March 22, 6 p. m., I informed Department of what had been said to me informally at Foreign Office, and had already pointed out in my No. 125, March 21,²⁶ that an assurance by M. Serruys is not same thing as an undertaking entered into by French Government. It is true nevertheless that informal indications have been made both by officials in Foreign Office and in Ministry of Commerce which show that that Government does desire initiation of commercial negotiations, not now, but in the near future.

My opinion that the present moment is opportune for initiation of commercial negotiations has been modified by Serruys' statement reported in my No. 130, March 24, noon, that his feeling is that negotiations should not begin until after new tariff becomes a law. In view of his statement I think this question should be given further consideration. On the other hand, the German position has been and still is to continue negotiations while tariff is under discussion, as these negotiations may be used to influence minimum rates in new tariff. Also, press despatches from Brussels state that negotiations will take place this month looking toward possibility of negotiating commercial agreement between France and Belgium.

It is difficult, moreover, to say whether we should initiate proposal for treaty without further conversations as there might be tactical advantage for us were we to leave it to the French actually to make

²⁶ Not printed.

proposal for negotiations, at which moment we should be ready to present a draft that would be as liberal as any that they would bring forward if given to understand informally that such proposal would meet with favorable reception.

In regard to preliminary suggestions on some things which ought to be included in treaty draft, subject to reservation above mentioned, included in treaties recently negotiated between the United States and several other countries, I propose that certain ambiguities in article II and article VII of consular convention between the United States and France of August 12, 1853,²⁷ be cleared away, but that rights we possess under that convention be maintained and even extended. Also, the treaties referred to above do not seem to include right to own real estate. Another question which should be covered carefully is the taxation of American banks and insurance companies which do business in France.

The matter will continue to receive Embassy's close study.

HERRICK

611.5131/517: Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, April 9, 1927—11 a. m.

[Received 1:45 p. m.]

161. My No. 149, April 1, 5 p. m. After considering matter further, I am inclined to think that it might be wise act to initiate commercial negotiations with French Government now. Reasons are as follows:

1. In negotiations now taking place between France and Germany, latter has pressed for and has obtained *de facto* most-favored-nation treatment as basis of negotiation. Belgians will probably press for similar treatment. There might be advantage to us in fact that others are bringing pressure to bear for certain standards of treatment at same time that our Government is discussing the subject. On other hand, there is possibility that French will be so occupied with two mentioned above that for the moment they will be unwilling to undertake a third major negotiation.

2. Treaty negotiations might be more readily effective in obtaining change in certain rates now when the new tariff law is in the making than later when the project has become a law, even though the proposed "minimum rates" make provision for "reduction below the minimum rates" through negotiation.

²⁷ Concluded Feb. 23, 1853, proclaimed Aug. 12, 1853; William M. Malloy (ed.), *Treaties, Conventions, etc., Between the United States of America and Other Powers, 1776-1909* (Washington, Government Printing Office, 1910), vol. I, p. 528.

3. Serruys' statement that negotiations should not be begun before the new tariff becomes law may have been motivated solely by desire to have negotiations start at time most favorable for French interests.

Should Department decide that negotiations should be initiated now, the Embassy, in accordance with suggestion made in its No. 149, might induce the French to propose negotiations by giving them to understand that the Government of the United States would receive favorably such a proposal. Should this maneuver fail, then Department could initiate negotiations itself by proposing adoption of treaty draft.

If this course should be followed, redraft of article VII as it appears in treaty with Germany appears necessary, for there seems no likelihood that France will consent to agreement which would give most-favored-nation treatment *de jure*.

HERRICK

611.5131/517 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, April 13, 1927—2 p. m.

108. Your No. 161, April 9, 11 a. m. The Department concurs in your belief that now is an appropriate time for the negotiations which it wishes to initiate through proposing to the Government of the Republic a draft which will be mailed you as soon as possible.

Department holds view that there is no reason for asking less of France than of other countries in regard to most-favored-nation treatment. It proposes to submit article VII in substantially the same form employed in treaties with Germany, Hungary, and Estonia, making additions suitable for dealing with a colonial power and for remedying certain practical difficulties which arise out of the French transit and indirect trade regulations. This article is based on existing law, particularly on section 317 of Tariff Act of 1922.

KELLOGG

611.5131/521

The Ambassador in France (Herrick) to the Secretary of State

No. 7378

PARIS, April 14, 1927.

[Received April 23.]

SIR: I have the honor to report that I have just received the Department's cable No. 108 of April 13th, 2 P. M., regarding commercial negotiations with France, and I hasten to make the following observations regarding the draft of the commercial treaty.

The Department states that there is no reason to ask less of France than of other countries in the matter of most-favored-nation treatment and that it proposes to submit Article 7 in substantially the form employed in the Treaty with Germany. I wish respectfully to submit, however, that it would seem less a question of the existence of a reason for asking less of France than of other countries than a question of the practical possibility of getting what is asked for, and, as I reported in my cable No. 161 of April 9th, there appears to be no chance that the French Government will consent to an agreement giving most-favored-nation treatment *de jure*. It is a settled policy of the French Government not to accord such treatment and it has not done so to any other country. The Germans, in their long drawn out negotiations, have not succeeded in securing, nor do they hope to secure, more than most-favored-nation treatment *de facto*. It is the firm opinion of the Commercial Attaché and myself that it is out of the question to secure most-favored-nation treatment *de jure* from the French unless it should be after a long, wearisome, costly, and unnecessary tariff war.

I therefore have the honor to repeat my suggestion that, in order to avoid coming to an immediate impasse in the negotiations, the text of Article 7 be remodeled.

I have [etc.]

For the Ambassador:

SHELDON WHITEHOUSE

Counselor of Embassy

651.003/284 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, May 2, 1927—2 p. m.

[Received 2:22 p. m.]

182. From Young.²⁸ After discussion with the Embassy and the commercial attaché I have following comments to make on the tariff situation.

1. During the Economic Conference the French negotiations were practically suspended with other countries. It would be to our advantage to have American draft of treaty submitted to French Government as soon as possible. Advantage would lie in action pressing for most-favored-nation basis being simultaneous with efforts of similar nature by Germany and Belgium against commer-

²⁸ Dr. Arthur N. Young, Economic Adviser of the Department of State, and one of the advisers of the American delegation to the World Economic Conference at Geneva; for correspondence concerning the Conference, see vol. I, pp. 238 ff.

cial discrimination which the American as well as other members of the Economic Conference will make. The treaty draft might be accompanied by a brief explanatory statement pointing out the great importance which the United States attaches to placing commercial relations which are not at present regulated by definite understanding on the most-favored-nation basis.

2. I suggest that at least the draft of the main features of the treaty be made available here as soon as possible. Later on amendments or comments could be telegraphed or sent by mail, or perhaps in submitting the draft a reservation could be made in regard to possible changes.

3. In conversation on April 29 a member of the Foreign Office modified position previously held and expressed personal belief that most-favored-nation treatment *de jure* might be arranged if some concessions were made to France. The French are apparently not convinced of finality of Embassy's statements that section 315 of tariff act is not a provision that would facilitate an exchange of concessions. Informal statements have in addition been made that the United States will occupy same relative position under new French tariff.

4. If the new French tariff is for bargaining, representations may merely tend to show that pressure is being felt. The emphasis laid on individual items tends to divert negotiations from the broad ground of seeking most-favored-nation treatment to the limited ground of dealing with individual items. Private action may be more helpful than by Embassy. I believe it not desirable to do more than to authorize the Embassy orally to point out the adverse effect that the rates would have on trade, and by way of illustration refer to particular items on which there have been specific complaints. The Embassy and the commercial attaché concur in this view.

[Young]

HERRICK

711.512/7

The Secretary of State to the Ambassador in France (Herrick)

No. 2320

WASHINGTON, June 10, 1927.

SIR: With reference to the Embassy's telegram No. 182 of May 2, 2 p. m., and previous correspondence in regard to the negotiation of a Treaty of Friendship, Commerce and Consular Rights between the United States and France, there is transmitted herewith a draft of such a treaty for submission to the French Government when you consider that the time is opportune for so doing. A copy of the draft is enclosed for the use of the Embassy.

The underlying principle of the draft in respect of matters relating to commerce is unconditional most favored treatment, as in the treaties concluded within the past four years by the United States with Germany, Hungary and Estonia, and now under negotiation with a number of other countries. In respect of many articles the draft is identical with the treaties that already have been concluded.

An instruction commenting in detail in regard to each Article of the draft will be sent to you by an early pouch. It is mentioned at this time that the enclosed draft contains a number of changes which have been introduced into the drafts used as the basis for negotiation by this Government since the treaties with Germany, Estonia and Hungary were concluded, important among such provisions being those in Article VII placing indirect trade on the same basis as direct trade and providing equality of treatment under contingent and licensing systems.

You will observe that provision is made for the insertion at the end of Article VII of such exceptions to the most favored nation treatment provided in that Article as may be proposed by France and agreed to by this Government.

As France is the first country exercising protectorates to which a draft of a treaty of friendship, commerce and consular rights has been submitted by this Government, the definition of territories in Article XXVIII has been enlarged as compared with the definition in the Treaty between the United States and Germany by the insertion of the words "under the sovereignty, authority or protection". This phrase is modeled on the phrase, "under the sovereignty or authority", used in the statute of the Barcelona Convention of 1921 on Freedom of Transit.²⁹ Certain exceptions are made in Article XXVIII of territories in respect of which it is believed that it is undesirable to consider changes in rights enjoyed under existing treaties or by custom and usage. It is assumed that it will be necessary to have a definite understanding as to the territories which will be embraced under each of the terms, "sovereignty", "authority" and "protection".

In Article XXIX are listed the treaties now in force between the United States and France which will be superseded upon the coming into force of the proposed Treaty.

When you present the draft to the French Government, please inform that Government that this Government reserves the right to suggest changes in the draft in the course of the negotiations.

Please cable the Department when you submit the draft to the French Government.

I am [etc.]

FRANK B. KELLOGG

²⁹ League of Nations Treaty Series, vol. VII, p. 11. The United States was not a signatory of this convention.

[Enclosure]

*Draft Treaty of Friendship, Commerce and Consular Rights Between
the United States of America and the Republic of France*

The United States of America and the Republic of France being desirous of strengthening the bond of peace which happily prevails between them, by arrangements designed to promote friendly intercourse between their respective territories through provisions responsive to the spiritual, cultural, economic and commercial aspirations of the peoples thereof, have resolved to conclude a Treaty of Friendship, Commerce and Consular Rights and for that purpose have appointed as their plenipotentiaries:

The President of the United States of America,
. and

The President of the Republic of France,
.

Who, having communicated to each other their full powers found to be in due form, have agreed upon the following articles:

ARTICLE I

The nationals of each of the High Contracting Parties shall be permitted to enter, travel and reside in the territories of the other; to exercise liberty of conscience and freedom of worship; to engage in professional, scientific, religious, philanthropic, manufacturing and commercial work of every kind without interference; to carry on every form of commercial activity which is not forbidden by the local law; to own, erect or lease and occupy appropriate buildings and to lease lands for residential, scientific, religious, philanthropic, manufacturing, commercial and mortuary purposes; to employ agents of their choice, and generally to do anything incidental to or necessary for the enjoyment of any of the foregoing privileges upon the same terms as nationals of the state of residence or as nationals of the nation hereafter to be most favored by it, submitting themselves to all local laws and regulations duly established.

The nationals of either High Contracting Party within the territories of the other shall not be subjected to the payment of any internal charges or taxes other or higher than those that are exacted of and paid by its nationals.

The nationals of each High Contracting Party shall enjoy freedom of access to the courts of justice of the other on conforming to the local laws, as well for the prosecution as for the defense of their rights, and in all degrees of jurisdiction established by law.

The nationals of each High Contracting Party shall receive within the territories of the other, upon submitting to conditions imposed

upon its nationals, the most constant protection and security for their persons and property, and shall enjoy in this respect that degree of protection that is required by international law. Their property shall not be taken without due process of law and without payment of just compensation.

Nothing contained in this Treaty shall be construed to affect existing statutes of either of the High Contracting Parties in relation to the immigration of aliens or the right of either of the High Contracting Parties to enact such statutes.

ARTICLE II

With respect to that form of protection granted by National, State or Provincial laws establishing civil liability for injuries or for death, and giving to relatives or heirs or dependents of an injured party a right of action or a pecuniary benefit, such relatives or heirs or dependents of the injured party, himself a national of either of the High Contracting Parties and within any of the territories of the other, shall regardless of their alienage or residence outside of the territory where the injury occurred, enjoy the same rights and privileges as are or may be granted to nationals, and under like conditions.

ARTICLE III

The dwellings, warehouses, manufactories, shops, and other places of business, and all premises thereto appertaining of the nationals of each of the High Contracting Parties in the territories of the other, used for any purposes set forth in Article I, shall be respected. It shall not be allowable to make a domiciliary visit to, or search of any such buildings and premises, or there to examine and inspect books, papers or accounts, except under the conditions and in conformity with the forms prescribed by the laws, ordinances and regulations for nationals.

ARTICLE IV

Where, on the death of any person holding real or other immovable property or interests therein within the territories of one High Contracting Party, such property or interests therein would, by the laws of the country or by a testamentary disposition, descend or pass to a national of the other High Contracting Party, whether resident or non-resident, were he not disqualified by the laws of the country where such property or interests therein is or are situated, such national shall be allowed a term of three years in which to sell the same, this term to be reasonably prolonged if circumstances render it necessary, and withdraw the proceeds thereof, without restraint

or interference, and exempt from any succession, probate or administrative duties or charges other than those which may be imposed in like cases upon the nationals of the country from which such proceeds may be drawn.

Nationals of either High Contracting Party may have full power to dispose of their personal property of every kind within the territories of the other, by testament, donation, or otherwise, and their heirs, legatees and donees, of whatsoever nationality, whether resident or non-resident, shall succeed to such personal property, and may take possession thereof, either by themselves or by others acting for them, and retain or dispose of the same at their pleasure subject to the payment of such duties or charges only as the nationals of the High Contracting Party within whose territories such property may be or belong shall be liable to pay in like cases.

ARTICLE V

The nationals of each of the High Contracting Parties in the exercise of the right of freedom of worship, within the territories of the other, as hereinabove provided, may, without annoyance or molestation of any kind by reason of their religious belief or otherwise, conduct services either within their own houses or within any appropriate buildings which they may be at liberty to erect and maintain in convenient situations, provided their teachings or practices are not contrary to public morals; and they may also be permitted to bury their dead according to their religious customs in suitable and convenient places established and maintained for the purpose, subject to the reasonable mortuary and sanitary laws and regulations of the place of burial.

ARTICLE VI

In the event of war between either High Contracting Party and a third State, such Party may draft for compulsory military service nationals of the other having a permanent residence within its territories and who have formally, according to its laws, declared an intention to adopt its nationality by naturalization, unless such individuals depart from the territories of said belligerent Party within sixty days after a declaration of war.

ARTICLE VII

Between the territories of the High Contracting Parties there shall be freedom of commerce and navigation. The nationals of each of the High Contracting Parties equally with those of the most favored nation, shall have liberty freely to come with their vessels and car-

goes to all places, ports and waters of every kind within the territorial limits of the other which are or may be open to foreign commerce and navigation. Nothing in this treaty shall be construed to restrict the right of either High Contracting Party to impose, on such terms as it may see fit, prohibitions or restrictions of a sanitary character designed to protect human, animal or plant life, or regulations for the enforcement of police or revenue laws.

Each of the High Contracting Parties binds itself unconditionally to impose no higher or other duties or charges or bases of such duties or charges, and no conditions or prohibition on the importation of any article, the growth, produce or manufacture of the territories of the other Party, from whatever place arriving, than are or shall be imposed on the importation of any like article, the growth, produce or manufacture of any other foreign country; nor shall any such duties, charges, conditions or prohibitions on importations be made effective retroactively on imports already cleared through the customs, or on goods declared for entry into consumption in the country.

Each of the High Contracting Parties also binds itself unconditionally to impose no higher or other charges or other restrictions or prohibitions on goods exported to the territories of the other High Contracting Party than are imposed on goods exported to any other foreign country.

In the event of licenses being issued by either of the High Contracting Parties for the importation into or exportation from its territories of articles the importation or exportation of which is restricted or prohibited, the conditions under which such licenses may be obtained shall be publicly announced and clearly stated in such a manner as to enable traders interested to become acquainted with them; the method of licensing shall be as simple and unvarying as possible and applications for licenses shall be dealt with as speedily as possible. Moreover, the conditions under which such licenses are issued by either of the High Contracting Parties for goods imported from or exported to the territories of the other Party shall be as favorable with respect to commodities, formalities and otherwise as the conditions under which licenses are issued in respect of any other foreign country. In the event of rations or quotas being established for the importation or exportation of articles restricted or prohibited, each of the High Contracting Parties agrees to grant for the importation from or exportation to the territories of the other Party an equitable share, in view of the normal volume of trade in the particular class of goods between the two countries, in the allocation of the quantity of restricted goods which may be authorized for importation or exportation. In the application of the provisions of this paragraph no distinction shall be made between direct and indirect shipments. It is agreed,

moreover, that in the event either High Contracting Party shall be engaged in war, it may enforce such import or export restrictions as may be required by the national interest.

Any advantage of whatsoever kind which either High Contracting Party may extend, by treaty, law, decree, regulation, practice or otherwise, to any article, the growth, produce or manufacture of any other foreign country shall simultaneously and unconditionally, without request and without compensation, be extended to the like article the growth, produce or manufacture of the other High Contracting Party.

All articles which are or may be legally imported from foreign countries into ports of the United States, or are or may be legally exported therefrom, in vessels of the United States may likewise be imported into those ports or exported therefrom in vessels of France without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in vessels of the United States; and, reciprocally, all articles which are or may be legally imported from foreign countries into the ports of France, or are or may be legally exported therefrom, in vessels of France may likewise be imported into these ports or exported therefrom in vessels of the United States without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in French vessels.

In the same manner there shall be perfect reciprocal equality in relation to the flags of the two countries with regard to bounties, drawbacks and other privileges of this nature of whatever denomination which may be allowed in the territories of each of the Contracting Parties, on goods imported or exported in national vessels so that such bounties, drawbacks and other privileges shall also and in like manner be allowed on goods imported or exported in vessels of the other country.

With respect to the amount and collection of duties on imports and exports of every kind, each of the two High Contracting Parties binds itself to give to the nationals, vessels and goods of the other the advantage of every favor, privilege or immunity which it shall have accorded to the nationals, vessels and goods of a third State, whether such favored State shall have been accorded such treatment gratuitously or in return for reciprocal compensatory treatment. Every such favor, privilege or immunity which shall hereafter be granted the nationals, vessels or goods of a third State shall simultaneously and unconditionally, without request and without compensation, be extended to the other High Contracting Party, for the benefit of itself, its nationals and vessels.

The stipulations of this Article do not extend to the treatment which is accorded by the United States to the commerce of Cuba

under the provisions of the Commercial Convention concluded by the United States and Cuba on December 11, 1902,³⁰ or any other commercial convention which hereafter may be concluded by the United States with Cuba, or to the commerce of the United States with any of its dependencies and the Panama Canal Zone under existing or future laws.

[Exceptions on behalf of France to be proposed by the French Government].³¹

ARTICLE VIII

The nationals and merchandise of each High Contracting Party within the territories of the other shall receive the same treatment as nationals and merchandise of the country with regard to internal taxes, transit duties, charges in respect to warehousing and other facilities and the amount of drawbacks and bounties.

ARTICLE IX

No duties of tonnage, harbor, pilotage, lighthouse, quarantine, or other similar or corresponding duties or charges of whatever denomination, levied in the name or for the profit of the Government, public functionaries, private individuals, corporations or establishments of any kind shall be imposed in the ports of the territories of either country upon the vessels of the other, which shall not equally, under the same conditions, be imposed on national vessels. Such equality of treatment shall apply reciprocally to the vessels of the two countries respectively from whatever place they may arrive and whatever may be their place of destination.

ARTICLE X

Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties, and carrying the papers required by its national laws in proof of nationality shall, both within the territorial waters of the other High Contracting Party and on the high seas, be deemed to be the vessels of the Party whose flag is flown.

ARTICLE XI

Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties shall be permitted to discharge portions of cargoes at any port open to foreign commerce in the territories of the other High Contracting Party, and to proceed with

³⁰ *Foreign Relations*, 1903, p. 375.

³¹ Brackets in the original.

the remaining portions of such cargoes to any other ports of the same territories open to foreign commerce, without paying other or higher tonnage dues or port charges in such cases than would be paid by national vessels in like circumstances, and they shall be permitted to load in like manner at different ports in the same voyage outward, provided, however, that the coasting trade of the High Contracting Parties is exempt from the provisions of this Article and from the other provisions of this Treaty, and is to be regulated according to the laws of each High Contracting Party in relation thereto. It is agreed, however, that the nationals of either High Contracting Party shall within the territories of the other enjoy with respect to the coasting trade the most favored nation treatment.

ARTICLE XII

Limited liability and other corporations and associations, whether or not for pecuniary profit, which have been or may hereafter be organized in accordance with and under the laws, National, State or Provincial, of either High Contracting Party and maintain a central office within the territories thereof, shall have their juridical status recognized by the other High Contracting Party provided that they pursue no aims within its territories contrary to its laws. They shall enjoy free access to the courts of law and equity, on conforming to the laws regulating the matter, as well for the prosecution as for the defense of rights in all the degrees of jurisdiction established by law.

The right of such corporations and associations of either High Contracting Party so recognized by the other to establish themselves within its territories, establish branch offices and fulfill their functions therein shall depend upon, and be governed solely by, the consent of such Party as expressed in its National, State, or Provincial laws.

[Corporations and associations of one High Contracting Party which have been permitted to establish themselves or their branches within the territories of the other shall enjoy unconditionally treatment which shall in no respect be less favorable than that accorded to corporations and associations of any third country.]*

ARTICLE XIII

The nationals of either High Contracting Party shall enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with

*This paragraph was not in the draft when the draft was mailed to the Embassy June 10, 1927. The Embassy was authorized to add it by telegram No. 251 of August 30, 1927, 4 p. m. C[harles] M. B[arnes, Assistant to the Solicitor]. [Marginal note on the file copy.]

respect to the organization of and participation in limited liability and other corporations and associations, for pecuniary profit or otherwise, including the rights of promotion, incorporation, purchase and ownership and sale of shares and the holding of executive or official positions therein. In the exercise of the foregoing rights and with respect to the regulation or procedure concerning the organization or conduct of such corporations or associations, such nationals shall be subjected to no condition less favorable than those which have been or may hereafter be imposed upon the nationals of the most favored nation. The rights of any of such corporations or associations as may be organized or controlled or participated in by the nationals of either High Contracting Party within the territories of the other to exercise any of their functions therein, shall be governed by the laws and regulations, national, state or provincial, which are in force or may hereafter be established within the territories of the Party wherein they propose to engage in business.

The nationals of either High Contracting Party, shall, moreover, enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain of the other.

ARTICLE XIV

Commercial travelers representing manufacturers, merchants and traders domiciled in the territories of either High Contracting Party shall on their entry into and sojourn in the territories of the other Party and on their departure therefrom be accorded the most favored nation treatment in respect of customs and other privileges and of all charges and taxes of whatever denomination applicable to them or to their samples.

If either High Contracting Party require the presentation of an authentic document establishing the identity and authority of a commercial traveler, a signed statement by the concern or concerns represented, certified by a consular officer of the country of destination shall be accepted as satisfactory.

ARTICLE XV

There shall be complete freedom of transit through the territories including territorial waters of each High Contracting Party on the routes most convenient for international transit, by rail, navigable waterway, and canal, other than the Panama Canal and waterways and canals which constitute international boundaries of the United

States, to persons and goods coming from or going through the territories of the other High Contracting Party, except such persons as may be forbidden admission into those territories or goods of which the importation may be prohibited by law. Persons and goods in transit shall not be subjected to any transit duty, or to any unnecessary delays or restrictions, or to any discrimination as regards charges, facilities, or any other matter.

Goods in transit must be entered at the proper custom house, but they shall be exempt from all customs or other similar duties.

All charges imposed on transport in transit shall be reasonable, having regard to the conditions of the traffic.

ARTICLE XVI

Each of the High Contracting Parties agrees to receive from the other, consular officers in those of its ports, places and cities, where it may be convenient and which are open to consular representatives of any foreign country.

Consular officers of each of the High Contracting Parties shall after entering upon their duties, enjoy reciprocally in the territories of the other all the rights, privileges, exemptions and immunities which are enjoyed by officers of the same grade of the most favored nation. As official agents, such officers shall be entitled to the high consideration of all officials, national or local, with whom they have official intercourse in the state which receives them.

The Governments of each of the High Contracting Parties shall furnish free of charge the necessary exequatur of such consular officers of the other as present a regular commission signed by the chief executive of the appointing state and under its great seal; and they shall issue to a subordinate or substitute consular officer duly appointed by an accepted superior consular officer with the approbation of his Government, or by any other competent officer of that Government, such documents as according to the laws of the respective countries shall be requisite for the exercise by the appointee of the consular function. On the exhibition of an exequatur, or other document issued in lieu thereof to such subordinate, such consular officer shall be permitted to enter upon his duties and to enjoy the rights, privileges and immunities granted by this treaty.

ARTICLE XVII

Consular officers, nationals of the state by which they are appointed, shall be exempt from arrest except when charged with the commission of offenses locally designated as crimes other than misdemeanors and subjecting the individual guilty thereof to punishment. Such

officers shall be exempt from military billetings, and from service of any military or naval, administrative or police character whatsoever.

In criminal cases the attendance at the trial by a consular officer as a witness may be demanded by the prosecution or defense. The demand shall be made with all possible regard for the consular dignity and the duties of the office; and there shall be compliance on the part of the consular officer.

Consular officers shall be subject to the jurisdiction of the courts in the state which receives them in civil cases, subject to the proviso, however, that when the officer is a national of the state which appoints him and is engaged in no private occupation for gain, his testimony shall be taken orally or in writing at his residence or office and with due regard for his convenience. The officer should, however, voluntarily give his testimony at the trial whenever it is possible to do so without serious interference with his official duties.

ARTICLE XVIII

Consular officers, including employees in a consulate, nationals of the State by which they are appointed other than those engaged in private occupations for gain within the State where they exercise their functions shall be exempt from all taxes, National, State, Provincial and Municipal, levied upon their persons or upon their property, except taxes levied on account of the possession or ownership of immovable property situated in, or income derived from property of any kind situated or belonging within the territories of the State within which they exercise their functions. All consular officers and employees, nationals of the State appointing them shall be exempt from the payment of taxes on the salary, fees or wages received by them in compensation for their consular services.

Lands and buildings situated in the territories of either High Contracting Party, of which the other High Contracting Party is the legal or equitable owner and which are used exclusively for governmental purposes by that owner, shall be exempt from taxation of every kind, National, State, Provincial and Municipal, other than assessments levied for services or local public improvements by which the premises are benefited.

ARTICLE XIX

Consular officers may place over the outer door of their respective offices the arms of their State with an appropriate inscription designating the official office. Such officers may also hoist the flag of their country on their offices including those situated in the capitals of the two countries. They may likewise hoist such flag over any boat or vessel employed in the exercise of the consular function.

The consular offices and archives shall at all times be inviolable. They shall under no circumstances be subjected to invasion by any authorities of any character within the country where such offices are located. Nor shall the authorities under any pretext make any examination or seizure of papers or other property deposited within a consular office. Consular offices shall not be used as places of asylum. No consular officers shall be required to produce official archives in court or testify as to their contents.

Upon the death, incapacity, or absence of a consular officer having no subordinate consular officer at his post, secretaries or chancellors, whose official character may have previously been made known to the Government of the State where the consular function was exercised, may temporarily exercise the consular function of the deceased or incapacitated or absent consular officer; and while so acting shall enjoy all the rights, prerogatives and immunities granted to the incumbent.

ARTICLE XX

Consular officers, nationals of the State by which they are appointed, may, within their respective consular districts, address the authorities, National, State, Provincial or Municipal, for the purpose of protecting their countrymen in the enjoyment of their rights accruing by treaty or otherwise. Complaint may be made for the infraction of those rights. Failure upon the part of the proper authorities to grant redress or to accord protection may justify interposition through the diplomatic channel, and in the absence of a diplomatic representative, a consul general or the consular officer stationed at the capital may apply directly to the Government of the country.

ARTICLE XXI

Consular officers may, in pursuance of the laws of their own country, take, at any appropriate place within their respective districts, the depositions of any occupants of vessels of their own country, or of any national of, or of any person having permanent residence within the territories of, their own country. Such officers may draw up, attest, certify and authenticate unilateral acts, deeds, and testamentary dispositions of their countrymen, and also contracts to which a countryman is a party. They may draw up, attest, certify and authenticate written instruments of any kind purporting to express or embody the conveyance or encumbrance of property of any kind within the territory of the State by which such officers are appointed, and unilateral acts, deeds, testamentary dispositions and contracts relating to property situated, or business to be transacted within, the territories of the State by which they are appointed, embracing uni-

lateral acts, deeds, testamentary dispositions or agreements executed solely by nationals of the State within which such officers exercise their functions.

Instruments and documents thus executed and copies and translations thereof, when duly authenticated under his official seal by the consular officer shall be received as evidence in the territories of the contracting parties as original documents or authenticated copies, as the case may be, and shall have the same force and effect as if drawn by and executed before a notary or other public officer duly authorized in the country by which the consular officer was appointed; provided, always that such documents shall have been drawn and executed in conformity to the laws and regulations of the country where they are designed to take effect.

ARTICLE XXII

A consular officer shall have exclusive jurisdiction over controversies arising out of the internal order of private vessels of his country, and shall alone exercise jurisdiction in cases, wherever arising, between officers and crews, pertaining to the enforcement of discipline on board, provided the vessel and the persons charged with wrongdoing shall have entered a port within his consular district. Such an officer shall also have jurisdiction over issues concerning the adjustment of wages and the execution of contracts relating thereto provided the local laws so permit.

When an act committed on board of a private vessel under the flag of the State by which the consular officer has been appointed and within the territorial waters of the State to which he has been appointed constitutes a crime according to the laws of that State, subjecting the person guilty thereof to punishment as a criminal, the consular officer shall not exercise jurisdiction except in so far as he is permitted to do so by the local law.

A consular officer may freely invoke the assistance of the local police authorities in any matter pertaining to the maintenance of internal order on board of a vessel under the flag of his country within the territorial waters of the State to which he is appointed, and upon such a request the requisite assistance shall be given.

A consular officer may appear with the officers and crews of vessels under the flag of his country before the judicial authorities of the State to which he is appointed to render assistance as an interpreter or agent.

ARTICLE XXIII

In case of the death of a national of either High Contracting Party in the territory of the other without having in the territory of his

decease any known heirs or testamentary executors by him appointed, the competent local authorities shall at once inform the nearest consular officer of the State of which the deceased was a national of the fact of his death, in order that necessary information may be forwarded to the parties interested.

In case of the death of a national of either of the High Contracting Parties without will or testament, in the territory of the other High Contracting Party, the consular officer of the State of which the deceased was a national and within whose district the deceased made his home at the time of death, shall, so far as the laws of the country permit and pending the appointment of an administrator and until letters of administration have been granted, be deemed qualified to take charge of the property left by the decedent for the preservation and protection of the same. Such consular officer shall have the right to be appointed as administrator within the discretion of a tribunal or other agency controlling the administration of estates provided the laws of the place where the estate is administered so permit.

Whenever a consular officer accepts the office of administrator of the estate of a deceased countryman, he subjects himself as such to the jurisdiction of the tribunal or other agency making the appointment for all necessary purposes to the same extent as a national of the country where he was appointed.

ARTICLE XXIV

A consular officer of either High Contracting Party may in behalf of his non-resident countrymen receipt for their distributive shares derived from estates in process of probate or accruing under the provisions of so-called Workmen's Compensation Laws or other like statutes provided he remit any funds so received through the appropriate agencies of his Government to the proper distributees, and provided further that he furnish to the authority or agency making distribution through him reasonable evidence of such remission.

ARTICLE XXV

A consular officer of either High Contracting Party shall have the right to inspect within the ports of the other High Contracting Party within his consular district, the private vessels of any flag destined or about to clear for ports of the country appointing him in order to observe the sanitary conditions and measures taken on board such vessels, and to be enabled thereby to execute intelligently bills of health and other documents required by the laws of his country, and to inform his Government concerning the extent to which its sanitary regulations have been observed at ports of departure by vessels destined to its ports, with a view to facilitating entry of such vessels therein.

ARTICLE XXVI

Each of the High Contracting Parties agrees to permit the entry free of all duty and without examination of any kind, of all furniture, equipment and supplies intended for official use in the consular offices of the other, and to extend to such consular officers of the other and their families and suites as are its nationals, the privilege of entry free of duty of their baggage and all other personal property, whether accompanying the officer to his post or imported at any time during his incumbency thereof; provided, nevertheless, that no article, the importation of which is prohibited by the law of either of the High Contracting Parties, may be brought into its territories.

It is understood, however, that this privilege shall not be extended to consular officers who are engaged in any private occupation for gain in the countries to which they are accredited, save with respect to governmental supplies.

ARTICLE XXVII

All proceedings relative to the salvage of vessels of either High Contracting Party wrecked upon the coasts of the other shall be directed by the Consular Officer of the country to which the vessel belongs and within whose district the wreck may have occurred. Pending the arrival of such officer, who shall be immediately informed of the occurrence, the local authorities shall take all necessary measures for the protection of persons and the preservation of wrecked property. The local authorities shall not otherwise interfere than for the maintenance of order, the protection of the interests of the salvors, if these do not belong to the crews that have been wrecked and to carry into effect the arrangements made for the entry and exportation of the merchandise saved. It is understood that such merchandise is not to be subjected to any custom house charges, unless it be intended for consumption in the country where the wreck may have taken place.

The intervention of the local authorities in these different cases shall occasion no expense of any kind, except such as may be caused by the operations of salvage and the preservation of the goods saved, together with such as would be incurred under similar circumstances by vessels of the nation.

ARTICLE XXVIII

Except as otherwise provided in this Treaty, the provisions thereof shall apply to all areas of land, water, and air under the sovereignty, authority or protection of either High Contracting Party. It is understood that they shall not apply to the Panama Canal Zone, the Cameroons, Togoland, Syria and the Lebanon, or any part of Morocco.

ARTICLE XXIX

Except as provided in the third paragraph of this Article the present Treaty shall remain in full force for the term of ten years from the date of the exchange of ratifications, on which date it shall begin to take effect in all of its provisions.

If within one year before the expiration of the aforesaid period of ten years neither High Contracting Party notifies to the other an intention of modifying by change or omission, any of the provisions of any of the articles in this Treaty or of terminating it upon the expiration of the aforesaid period, the Treaty shall remain in full force and effect after the aforesaid period and until one year from such a time as either of the High Contracting Parties shall have notified to the other an intention of modifying or terminating the Treaty.

The sixth and seventh paragraphs of Article VII and Articles IX and XI shall remain in force for twelve months from the date of exchange of ratifications, and if not then terminated on ninety days previous notice shall remain in force until either of the High Contracting Parties shall enact legislation inconsistent therewith when the same shall automatically lapse at the end of sixty days from such enactment, and on such lapse each High Contracting Party shall enjoy all the rights which it would have possessed had such paragraphs or articles not been embraced in the Treaty.

The present Treaty shall from the date of the exchange of ratifications supplant the following conventions between the United States and France:

(a) The Convention of Navigation and Commerce, concluded June 24, 1822;³²

(b) The Agreement modifying Article VII of the said Convention, concluded July 17, 1919;³³ and

(c) The Consular Convention, concluded February 23, 1853.³⁴

ARTICLE XXX

The present Treaty shall be ratified, and the ratifications thereof shall be exchanged at _____ as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the same and have affixed their seals thereto.

Done in duplicate, in the English and French languages at _____, this _____ day of _____ 192 .

³² Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 3, p. 77.

³³ *Foreign Relations*, 1919, vol. II, p. 232.

³⁴ Malloy, *Treaties*, 1776-1909, vol. I, p. 528.

611.5131/538

The Ambassador in France (Herrick) to the Secretary of State

No. 7569

PARIS, June 10, 1927.

[Received June 18.]

SIR: I have the honor to refer to my cable of to-day's date³⁵ and to report that I was informed at the Foreign Office this morning that, for various reasons, it is highly improbable that the new tariff Bill will be enacted, at any rate until the end of the summer vacation. The Chamber of Deputies will continue to discuss the tariff for the present during a part of the morning sessions, but, as it is imperative to pass the new electoral law and the Army reorganization Bill before the vacation period, the tariff Bill will from now on receive but scanty attention. I was further informed that, while the opposition to various parts of the tariff Bill is not as serious as has been represented by the press, the Chamber of Deputies has a keen desire not to pass it at present as it seems likely that its terms may increase the cost of living, and the Deputies are far from anxious to bring about this result before the elections of next May. My informant gave it as his opinion, therefore, that the new tariff will not become law before next January and that it will not go into effect until after the elections, in other words, a year from the present time.

My informant stated that, in spite of the above circumstances, the commercial negotiations with various countries would continue. The German representatives have just returned to Paris to continue their long-drawn out negotiations. The temporary accords which now govern commercial relations between France and Germany expire at the end of this month, but it is thought likely that they will be renewed.

The above-mentioned developments make the present time, in my opinion, a no less favorable one for the initiation of commercial negotiations between the United States and France, but it is obvious that if the new tariff is not going to be enacted until a year from now, time is no longer of the essence of the contract.

I have [etc.]

MYRON T. HERRICK

711.512/1

The Secretary of State to the Chargé in France (Whitehouse)

No. 2339

WASHINGTON, June 28, 1927.

SIR: In instruction No. 2320 of June 10, 1927, transmitting two copies of a draft to be used as a basis for the negotiation of a treaty

³⁵ Not printed.

of friendship, commerce and consular rights between the United States and France, it was stated that a more detailed instruction commenting upon the several articles of the draft would be sent the Embassy in a later pouch.

The following statement is designed to make clear the position of this Government concerning the general features of the treaty, and respecting the various provisions thereof.

The Treaty is designed to promote friendly intercourse between the peoples of the United States and France, through provisions advantageous to both. It may be said with entire candor that this treaty embodies no attempt whatever to attain by sharp bargaining undue advantages over a friendly State. The draft contains in certain articles provisions which in their practical operation ought to be deemed of special advantage to a foreign contracting party such as France. These advantages are incorporated in the treaty because they are deemed to promote justice as between the peoples of friendly States. In a word, through the present draft, it is sought to lay the foundation for a comprehensive arrangement responsible to the modern and exacting requirements of maritime States. To that end, the several articles are expressed in terms which definitely and clearly set forth what is desired. It is sought by this means to avoid the danger of conflicting interpretations. The terms and phrases used are not always those which have been employed in treaties of the United States. Those utilized will, it is hoped, add to the clearness of the document.

The first six articles deal generally with the rights of the nationals of the one party residing in the territories of the other. The attempt is made to give the citizen of France in the United States or the American in France all of those privileges which can reasonably be accorded the resident alien.

Article I provides for the rights of travel and residence and of commercial, professional and religious activity and for the protection of persons and property.

In phraseology and scope, the first paragraph of Article I differs somewhat from the corresponding provisions as contained in treaties of the United States concluded before the Treaty of 1923 with Germany. The effort has been made to set forth comprehensively, yet tersely, the privileges for which provision is made. It will be noted that the most favored nation treatment provided in this paragraph refers to acts "hereafter" according privileges to other States.

In the next to the last paragraph of Article I provision is made for the protection and security of the person and property of the resident alien, in accordance with the requirements of international law. It is believed that it may prove highly useful to acknowledge

that the test of the propriety of the treatment due the resident alien is that accorded by international law, rather than by the standards fixed by the State of residence in dealing with its own nationals. The provision for the international law test has been inserted in the standard treaty to operate as a safeguard in those countries whose treatment of their own nationals is arbitrary and unjust. This paragraph also provides that the property of the resident alien is not to be taken without due process of law and without payment of just compensation. It is hoped that these provisions will be warmly appreciated by the Government of France.

In the last paragraph of Article I is embodied a reservation made by the Senate of the United States³⁶ as a condition of giving its advice and consent to the ratification of the Treaty of Friendship, Commerce and Consular Rights signed by the United States and Germany on December 8, 1923. From the point of view of this Government such a provision is necessary.

Article II extends to non-resident aliens the same rights of recovery under Workmen's Compensation Acts and other like statutes that are enjoyed by nationals. This Article, suggested by the treaty of February 25, 1913, between the United States and Italy,³⁷ somewhat elaborates the provisions of Article I of that treaty. The purpose of the elaboration has been twofold—first, to cover so-called Workmen's Compensation Acts, where benefits accrue by reason of the fact of injury, rather than by reason of negligence attributable to an employer; secondly, to give the alien the same benefit of privileges under such Acts as are enjoyed by nationals.

Article III precludes the visit and search of the dwellings, factories, etc. of aliens except as prescribed by the law for nationals. This is not an uncommon provision. It is contained in substance in Article II of the treaty of February 21, 1911, between the United States and Japan.³⁸ It is included in the same language as in the enclosed draft in the treaties recently concluded by the United States with Germany, Hungary and Estonia.

Article IV makes provision for the disposition of property by inheritance or devise. The arrangement in the first paragraph enables, for example, an heir or devisee in France to take title to American lands owned by a relative who died in the United States, and to have the privilege of disposing of those lands within a reasonable period of time when the local law, as of some State of the United States, does not permit such alien to retain title. This paragraph reproduces Article I of the Convention of March 2, 1899 of the United States

³⁶ *Foreign Relations*, 1923, vol. II, p. 45.

³⁷ *Ibid.*, 1913, p. 611.

³⁸ *Ibid.*, 1911, p. 315.

with Great Britain.³⁹ The second paragraph of Article IV grants full rights in respect of the ownership and transmission of personal property. The provisions of the Article conform to the traditional policy of the United States, as shown by Article V of the Treaty of 1850 between the United States and the Swiss Confederation,⁴⁰ and Article III of the Treaty of Friendship and General Relations, concluded by the United States and Spain on July 3, 1902.⁴¹ A somewhat different provision is contained in Article VII of the Consular Convention of 1853 between the United States and France.⁴²

Article V guarantees the right of freedom of worship. It enlarges slightly the not uncommon provisions relative to religious practices. It is reasonable in its scope and desired by the United States. Obviously, no practices contrary to public morals are to be permitted under the guise of religious activity. It has seemed wise to recognize the importance of local mortuary and sanitary regulations.

Article VI imposes compulsory military service, in certain contingencies, upon a resident alien in the event of war. This is an important belligerent right which you should endeavor to incorporate in the treaty. The result of the late war revealed the fact that should the United States be a belligerent in a conflict where it had but a single enemy, the neutral alien residents within its territory would probably embrace a large adult male population capable of military service and reasonably subject thereto under the conditions here proposed. As the right to exact military service in this Article is conditioned upon three things (1) the permanent residence of the individual within the territory of the State drafting him; (2) his having formally declared an intention to acquire its nationality; and (3) his not having departed from the territory of the belligerent party within a specified time after declaration of war, it is believed that the necessary safeguards are established. Even though the Government of France should desire complete exemption, as was provided in certain earlier treaties of the United States, and should object to the Article here proposed, earnest effort should be made to procure acceptance of this Article.

Article VII makes full provision for the enjoyment of the most-favored-nation clause in its unconditional form, applying it to persons, vessels and cargoes, and to articles, the growth, produce or manufacture of the contracting parties. It will be seen that the most-favored-nation clause is applied to duties on imports and exports and to other charges or restrictions or prohibitions on goods imported and exported. The

³⁹ Malloy, *Treaties*, 1776-1909, vol. I, p. 774.

⁴⁰ Miller, *Treaties*, vol. 5, p. 845.

⁴¹ *Foreign Relations*, 1903, p. 721.

⁴² Malloy, *Treaties*, 1776-1909, vol. I, p. 528.

last sentence of the first paragraph is of great importance because of the reservations set forth therein.

The following provisions in Article VII of the draft are not contained in the treaties of Friendship, Commerce and Consular Rights recently concluded by the United States with Germany, Estonia and Hungary: (1) the provisions made for the protection of indirect trade by the words "from whatever place arriving" in the second paragraph and by the sentence "In the application of the provisions of this paragraph no distinction shall be made between direct and indirect shipments" in the fourth paragraph, (2) the provisions in the fourth paragraph in regard to licenses for importations and exportations and for equitable treatment in respect of rations or quotas of restricted goods, and (3) the words "by treaty, law, decree, regulation, practice or otherwise" in the fifth paragraph. In the view of this Government the provisions of Article VII of the treaties of the United States with Germany, Hungary, and Estonia, when correctly construed embrace the subjects to which these additional provisions relate. The changes introduced into the Article are designed, therefore, to clarify not alter the provisions as contained in the treaties already concluded by the United States. The following observations in regard to the new provisions may be helpful to you:

(1) This Government has experienced difficulty in obtaining complete most favored nation treatment for American products in certain countries in which importations of such products are drawn largely from warehouses in third States. The present draft is designed to clarify the situation by expressly excluding any distinction between the treatment accorded such shipments and that accorded direct shipments.

(2) Experience has shown that American commerce has been discriminated against in certain countries under systems of licenses, or of rations or quotas regulating the importation and exportation of merchandise. The fourth paragraph of Article VII is designed to make clear that equitable treatment is to be accorded under such systems. Provisions similar to those in the first part of the paragraph are contained in the International Convention for the Simplification of Customs Formalities, signed at Geneva November 3, 1923,⁴⁸ and provisions similar to those in the second part of the paragraph are contained in the second paragraph of exchanges of notes between the United States and several countries (Poland, February 10, 1925, Treaty Series No. 727; Finland, May 2, 1925, Treaty Series No. 715; Estonia, March 2, 1925, Treaty Series No. 722; Rumania, February 26, 1926, Treaty Series No. 733; Latvia, February 1, 1926, Treaty Series No. 740;

⁴⁸ League of Nations Treaty Series, vol. xxx, p. 371.

Lithuania, December 23, 1925, Treaty Series No. 742; Haiti, July 8, 1926, Treaty Series No. 746). ⁴⁴

(3) The additional phrase "by treaty, law, decree, regulation, practice or otherwise" inserted in the fifth paragraph is not intended to vary the meaning of the paragraph which is contained as the fourth paragraph of Article VII in the treaties between the United States and Germany, Estonia and Hungary. It has been deemed wise, however, to clarify the meaning of the paragraph by the addition of this phrase.

The revised draft of Article VII as contained in the draft sent to you is included in drafts just submitted to two other countries ⁴⁵ and will be regarded as the standard form for use in treaties of friendship, commerce and consular rights which the United States may undertake henceforth to negotiate. Consequently, the Government of France need not feel that it will be discriminated against in accepting the provisions to which attention is herein called although they are not contained in the treaties of Friendship, Commerce and Consular Rights of the United States now in effect.

In the last paragraph there is an important reservation with respect to the commerce between the United States and Cuba, and to the commerce of the United States with its dependencies, embracing the Panama Canal Zone, under existing or future laws. These reservations are essential. You will recall that the arrangements between the United States and Cuba under the treaty of December 11, 1902, are of a peculiar nature. The special relationship political and geographical between the United States and Cuba necessitates the reservation concerning the commerce with that country. It is assumed that France will desire to make exceptions here of its own commerce with its colonies, of the trade of the colonies with France and of trade among the colonies. You should, however, be cautious not to intimate that any particular exception suggested by France will be acceptable to this Government.

Article VIII relates to internal taxes, transit dues, charges in respect of warehousing and other facilities, drawbacks, and bounties.

Article IX concerning duties of tonnage, harbor, pilotage, lighthouse, quarantine, etc., provides for national treatment applied reciprocally, that is, the same conditions are to be applied to a vessel of France in American ports as are applied to American vessels, provided

⁴⁴ The exchanges of notes between the United States and Poland, Finland, and Estonia are printed in *Foreign Relations*, 1925, vol. II, pp. 692, 86, and 70; between the United States and Rumania and Latvia in *ibid.*, 1926, vol. II, pp. 898 and 488; between the United States and Lithuania in *ibid.*, 1925, vol. II, p. 500; between the United States and Haiti in *ibid.*, 1926, vol. II, p. 401.

⁴⁵ Austria and Sweden.

France applies to American vessels in its ports the same conditions that are applied to vessels of France therein.

Article X requires no comment, except to note that the recognition of the national character of vessels here provided for is to be effective on the high seas as well as within territorial waters.

The provisions of Article XI will explain themselves. You will, of course, observe that there is definite statement to the effect that the coasting trade of both parties is exempt from the provisions of the Treaty. The addition of the last sentence is due to the possibility that one contracting party might yield coasting trade privileges of some character to foreign vessels. Hence that contingency is covered.

Your attention is particularly called to the provision contained in the third paragraph of Article XXIX, under which the sixth and seventh paragraphs of Article VII and Articles IX and XI are made terminable on ninety days notice at the end of twelve months from the date of exchange of ratifications of the Treaty and thereafter by operation of legislation inconsistent with them which may be enacted by the United States or France. The provision in regard to the termination of these paragraphs and articles is the consequence of a reservation in regard to like paragraphs and articles, made by the Senate of the United States in giving its advice and consent to the ratification of the Treaty of Friendship, Commerce and Consular Rights, signed by the United States and Germany on December 8, 1923. From the point of view of this Government the provision is essential.

Article XII concerns the right of corporations incorporated in the one country to be recognized in the other, and to enjoy access to the courts. It should be observed, however, that the right to do business in the foreign country, for example, of an American corporation in France, is conditioned upon the laws of that country. These limitations are deemed absolutely essential particularly because of the powers of the several States of the United States to regulate the matter. Like provisions are contained in Article VII of the Treaty between the United States and Japan of February 21, 1911, as well as in the Treaty of 1923 between the United States and Germany, and the treaties recently concluded by the United States with Hungary, Estonia and Salvador.⁴⁶

In Article XIII arrangement is made for the participation by nationals of the one State in corporations incorporated in the other. The laws of the United States render it imperative that these rights be based on a reciprocal footing, and that the most-favored-nation treatment in this connection be conditioned upon reciprocity. In the

⁴⁶ *Foreign Relations*, 1925, vol. II, pp. 341 and 70, respectively, and *ibid.*, 1926, vol. II, p. 912.

Treaty of Friendship, Commerce and Consular Rights between the United States and Hungary, signed June 24, 1925, a further provision is added to the first paragraph of Article X as follows:

"The foregoing stipulations do not apply to the organization of and participation in political associations."

The same provision is included in the corresponding articles of the treaties of the United States with Germany and Estonia. While this Government does not propose the insertion of this provision in the Treaty with France, it has no objection to incorporating it therein as the last sentence of the first paragraph of Article XIII if the French Government so desires.

The last paragraph of Article XIII offers a reciprocal basis in harmony with the statutory law of the United States for agreement within necessarily narrow limits respecting privileges of mining and minerals described. The Act of February 25, 1920, to promote the mining of coal, phosphate, oil, oil shale, gas and sodium on the public domain,⁴⁷ contains in Section 1 the following proviso:

"That citizens of another country, the laws, customs or regulations of which deny similar or like privileges to citizens or corporations of this country, shall not by stock ownership, stock holding, or stock control, own any interest in any lease acquired under the provisions of this Act."

Article XIV provides for most favored nation treatment of commercial travelers representing manufacturers, merchants and traders domiciled in one State upon their entry into, sojourn within, and departure from the territories of the other. The second paragraph of this Article covers the case where a certificate of identity of the traveler may be required. The Article is an adap[ta]tion of Article XIV of the Treaty of Friendship, Commerce and Consular Rights between the United States and Estonia and of the second paragraph of the Protocol accompanying that Treaty. It is being agreed to in treaties with States with which this Government is engaged in negotiating treaties whenever the most-favored-nation treatment which would be accorded American commercial travelers thereunder is satisfactory. Under this Article, French commercial travelers in the United States would be entitled to the benefit of the provisions of Articles XIV and XV of the Treaty of Friendship, Commerce and Consular Rights of 1923 between the United States and Germany. Before finally agreeing on this Article you will report on the treatment to which American commercial travelers in France would be entitled thereunder in order that further instructions may be given you in regard to it.

⁴⁷ 41 Stat. 437.

Article XV deals with transit through the territories of the United States and France and also territorial waters with certain reservations as to the latter embracing international boundary waters of the United States and the Panama Canal. This Article contains limitations with respect to prohibited persons and articles. The conditions applied to transit are reasonable and necessary. The reservation of boundary waters of the United States is important. It is not recalled that rights of navigation or transit therein have ever been accorded to foreign States not sovereign over contiguous territory.

Articles 321-326 of the Treaty of Versailles, embraced in the treaty of the United States with Germany of August 25, 1921,⁴⁸ make elaborate provision for transit across German territory. The Barcelona Conference, assembled under the auspices of the League of Nations, was productive of a draft convention and statute on the freedom of transit in April, 1921.⁴⁹

It will be recalled that by Article 29 of the Treaty between the United States and Great Britain of May 8, 1871,⁵⁰ provision was made for the transit in bond of merchandise across certain portions of the United States and Canada under conditions specifying ports of entry, and otherwise defining limitations. This article is no longer in force.

The rights of transit through the Panama Canal are definitely established by the Convention between the United States and Great Britain of November 18, 1901, known as the Hay-Pauncefote Treaty.⁵¹ In Article III thereof it is provided that:

"The canal shall be free and open to the vessels of commerce and of war of all nations observing these Rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise. Such conditions and charges of traffic shall be just and equitable."

Thus it will be understood that Article XV of the draft is not designed to impose any special restriction with respect to the Panama Canal which would operate against France. The Article rather reserves from its operation the matter of transit through that Canal.

There may be some room for the practical operation of this Article as between the United States and France and its incorporation in the treaty is deemed useful, also on account of prospective treaty negotiations between the United States and other Powers.

Articles XVI-XXVII concern consular rights. These cover fully

⁴⁸ *Foreign Relations*, 1921, vol. II, p. 29.

⁴⁹ League of Nations Treaty Series, vol. VII, p. 11.

⁵⁰ *Foreign Relations*, 1871, p. 516; also in Malloy, *Treaties*, 1776-1909, vol. I, p. 700.

⁵¹ *Ibid.*, 1901, p. 243.

consular provisions of the most modern type which ought to be of great benefit to consular officers of both countries.

Attention is called to the last sentence of the second paragraph of Article XVI providing that consular officers shall be entitled to the high consideration of officials with whom they come in contact. This is designed to give prestige to consular officers and particularly to safeguard them from discourtesy which they might otherwise encounter on the part of minor officials. The last paragraph of Article XVI provides that a regular commission be signed by "the chief Executive of the appointing State and under its great seal".

The matter of the arrest of consular officers and their criminal prosecution, as well as their service as witnesses in criminal cases, is covered fully in Article XVII; likewise, the matter of their exemption from arrest. Exemption from arrest in criminal cases should be limited by the broad exception here stated. The provision in regard to attendance of a consular officer as a witness in criminal cases differs from the corresponding provision in Article II of the Consular Convention of 1853 between the United States and France. The provision in the draft is designed to avoid misunderstandings such as arose out of the language of the Treaty of 1853. (See Dillon's Case, Moore's *Digest*, Vol. V, pp. 78-80.) It is believed that it is in harmony with instructions issued by the French Government to French consuls in the United States relating to attendance of consular officers as witnesses in criminal cases. (See Dana's *Wheaton*, p. 325.) Article XVII also deals with the jurisdiction of courts over consuls in civil matters. While consular officers are normally subject to the local jurisdiction in civil cases, it is important to provide that the exercise of such jurisdiction shall not interfere with their official duties. The several provisions of the Article, including those in regard to the taking of testimony and the exemption from billeting, and from military and other services, are believed to be responsive to the modern situation and wholly desirable.

The taxation of consular officers is fully dealt with in Article XVIII. It will be noted that there is an exemption from taxation on salaries of consular officers, and from taxation of the person or property of the consuls but that immovable property owned by them and income derived from sources within the country of official residence are excepted from this last exemption. An important exemption is established in the same Article with respect to lands and buildings used for governmental purposes and under necessary reservations.

Article XIX in its first paragraph permits the hoisting of the flag of the country on consular offices including those "situated in the capitals of the two countries". This new provision, although in sharp contrast with the one contained in Article XVII of the Treaty of

Friendship and General Relations concluded by the United States and Spain on July 3, 1902, is consistent with the provision on the point in the Consular Convention of 1853 between the United States and France. The second and third paragraphs of this Article require no comment.

The provisions of Article XX enabling consular officers to address the authorities with a view to protecting their countrymen in the enjoyment of the rights accruing by treaty or otherwise, and in order to complain of infraction of those rights, are believed to serve a useful purpose.

It is important that a consular officer be permitted to invoke the aid of the authorities of the State to which he is accredited for the purposes set forth in this Article. Those purposes are described with greater fullness than is common in treaties of the United States. They ought to be inserted in the Treaty.

Article XXI makes provision for the exercise of notarial functions by consular officers. The first paragraph slightly elaborates Article X of the Consular Convention of the United States with Sweden of June 1, 1910.⁵² There are also differences in phraseology. The second paragraph needs no explanation.

Article XXII makes a definite and important provision in its first paragraph with respect to the jurisdiction of a consular officer over offenses committed on merchant vessels of his country and over certain civil cases under specified conditions. This paragraph differs sharply from the provisions on the same subject in treaties concluded by the United States before the Treaty of 1923 with Germany, as for example, the second paragraph of Article XIII of the Treaty of Commerce and Navigation concluded by the United States with Sweden and Norway on July 4, 1827, and Article XI of the Consular Convention between the United States and Belgium of March 9, 1880.⁵³ In the latter it was provided, ". . . The local authorities shall not interfere except when the disorder that has arisen is of such a nature as to disturb tranquility and public order on shore, or in the port, or when a person of the country or not belonging to the crew shall be concerned therein." (See *Wildenhus Case*, 120 U. S. 1.) Objection has been made to the foregoing language on the ground that it affords no sufficient tests and demands in each case a decision by a local court of a complicated preliminary question as to the propriety of local justice over offenses. In the provision proposed it is sought to indicate definitely certain conditions under which local courts may appropriately exercise jurisdiction in criminal cases. The jurisdiction thus conferred on them may go somewhat further

⁵² *Foreign Relations*, 1911, p. 723.

⁵³ Malloy, *Treaties*, 1776-1909, vol. I, p. 94.

than is contemplated by treaties concluded by the United States before the Treaty of 1923 with Germany. The second paragraph of Article XXII is supplementary to the first. It is believed that a safe line is drawn for practical purposes, and no injustice is likely to result. The third paragraph provides for the consular invocation of local aid for the maintenance of internal order on board of a vessel. The fourth paragraph requires no comment.

Article XXIII pertains to the several problems where a countryman of the consul dies intestate within the consular district. The first paragraph provides for the notification of the consul of the fact of death where the decedent leaves no known heirs in the country where death occurred. This is a frequent provision in treaties of the United States. The Department of State has frequently advised the Governors of the several States of the United States of its existence in order that there might be local compliance. It may be noted that certain States such as Michigan and Minnesota have undertaken through their statutory law to provide for consular notification.

Provisions of American treaties conferring upon consular officers rights relating to the administration of estates of deceased intestate aliens have lacked uniformity, and have been expressed in terms that have been productive of much litigation in the United States. In the second paragraph of Article XXIII an attempt is made to define such rights clearly. The consul is given first, a right under certain circumstances to take charge of assets pending the appointment of an administrator; and secondly, a right to administer when the local law permits. He is thus rendered subject to the local statutory laws. The right to administer is rarely desired by an American consular officer. On the other hand, foreign consular officers in the United States often seek to exercise it. It is not believed that it should be conferred more broadly than is here provided. The last clause of this paragraph will be helpful to the foreign consular applicant for letters of administration in the United States.

It is deemed absolutely essential in the United States that any consular right of administration be subordinated to local State laws conferring rights of administration on public officials or private individuals, and that whenever a consul accepts the office of administrator he should be subjected to the jurisdiction of the tribunal appointing him. The last paragraph of the Article so provides.

Article XXIV confers upon the consul the right to receipt for the distributive share accruing to a nonresident countryman, derived from estates in process of probate or from the operation of Workmen's Compensation Acts. The consul is obliged, however, to remit funds through the agencies of his Government to the proper distributees, and to furnish the authority making distribution through him rea-

sonable evidence of such remission. This also is a fresh provision not contained in treaties concluded by the United States before the Treaty of 1923 with Germany. It is believed that it will promote justice for all concerned.

It may be noted that the Employers Liability Act of Maryland as amended in 1924 and contained in the Code of that year provided in part that:

"Nonresident alien dependents may be officially represented by the consular officers of the nation of which such alien or aliens may be citizens or subjects, and in such cases the consular officers shall have the right to receive, for distribution to such nonresident alien dependents, all compensation awarded hereunder, and the receipt of such consular officers shall be a full discharge of all sums paid to and received by them." [Annotated Code, 1924, section 36 (4).]⁵⁴

Article XXV contains a provision greatly desired by the Consular Service and the Public Health Service of the United States. It contemplates consular inspection of private vessels of any flag about to clear from ports of the United States for France or from the ports of France for the United States. It is believed that the territorial sovereign is within its right in permitting a foreign consular officer to make reasonable inspection of any private vessel within its ports and about to clear for a port of the consul's country. It is earnestly hoped that the Government of France will accept this provision which will serve to facilitate the entry of vessels clearing from the ports of France for American ports.

Article XXVI concerns the free entry of personal and official belongings of consular officers, their families and suites when nationals of the appointing State, with limitations that are specified.

American consular officers in foreign countries frequently experience difficulty in obtaining free entry for their personal property upon arrival at their posts and are often subjected to great annoyance and expense in connection therewith. Certain countries now permit free entry of the baggage and certain household property of consular officers and their families. Some, however, refuse free entry to automobiles, musical instruments, chinaware, etc. In some countries official supplies and equipment for consular officers are required to pay duty.

Under the United States Customs Regulations foreign consuls, their families, suites and servants are granted, on the basis of reciprocity, free entry of all baggage and household goods which accompany them to the United States, or which arrive shortly thereafter. They are required to pay, in the absence of treaty provision, regular duty on subsequent importations of personal property. Official supplies for consular offices are admitted free of duty.

⁵⁴ Brackets on the original instruction.

Article XXVII which is based upon Article XIII of the Consular Convention with Sweden of June 1, 1910, deals with the matter of shipwreck and salvage. The provisions are common in commercial treaties and consular conventions. They require no comment.

Article XXVIII states definitely the scope of the territories, land, water and air, within the operation of the treaty. It has seemed wise to define comprehensively the territorial areas within the scope of the Treaty. It is deemed important to include colonies and protectorates therein and to embrace air, as well as land and water.

Inasmuch as the rights of the United States and France in the French mandates of the Cameroons, Togoland, and Syria and the Lebanon are the subject of treaties dealing specifically with those regions,⁵⁵ it has seemed well to indicate clearly that the present treaty shall not affect those rights.

From the examination which the Department has made of the rights of the United States in French protectorates it appears that such rights are secured by treaties in Morocco (which includes Tangier, the zone of Spanish influence, and the French Zone) and in Tunis.

It is believed that the rights in Morocco under the Treaty of Peace and Friendship of 1836 between the United States and Morocco,⁵⁶ the International Convention as to Protection of 1880⁵⁷ and the General Act of Algeciras of 1906⁵⁸ should not be disturbed. Morocco is therefore excepted from the territories to which the proposed treaty will apply.

The obligation of France to the United States in respect of Tunis exists under the Treaty of 1904 to determine relations between the United States and France in Tunis.⁵⁹ Therein France agreed to assure to the consuls and citizens of the United States in Tunis the rights and privileges "which belong to them in virtue of international law or which belong to them in France by reason of treaties in existence between the United States and France." The extension of the proposed treaty to Tunis would be a means satisfactory to the United States for the continuation of this assurance by France. In the form in which Article XXVIII is drafted the new treaty will apply to Tunis.

It is believed, however, that it would be undesirable to include the Treaty of 1904 to determine relations in Tunis in the list of treaties in Article XXIX which will be supplanted by the new treaty, for the reason that the Treaty of 1904 contains an assurance from France that rights and privileges under international law will be accorded

⁵⁵ *Foreign Relations*, 1923, vol. II, p. 8, and *ibid.*, 1924, vol. I, p. 741.

⁵⁶ Miller, *Treaties*, vol. 4, p. 33.

⁵⁷ Malloy, *Treaties*, 1776-1909, vol. I, p. 1220.

⁵⁸ *Foreign Relations*, 1906, pt. 2, p. 1495.

⁵⁹ *Ibid.*, 1904, p. 304.

to citizens of the United States in Tunis and also contains the surrender of extraterritorial jurisdiction of American consular officers in Tunis. It is believed that it is desirable that these two provisions of the Treaty of 1904 should continue in force.

Article XXIX deals with the duration of the Treaty and modes of terminating it.

It is important that the date on which the Treaty is to take effect be specified; and it is reasonable that that date should be the same one for all Articles of the Treaty. It is to be noted that the Treaty is to take effect on the date of the exchange of ratifications and that it will supplant the following conventions between the United States and France: The Convention of Navigation and Commerce concluded June 24, 1822; the Agreement modifying Article VII of the said Convention, concluded July 17, 1919; and the Consular Convention, concluded February 23, 1853.

The matter of duration and notice of termination is one on which there may well be divergent opinion. It is deemed wise to fix the initial period of operation at ten years in regard to all matters with respect to which the Contracting Parties have a permanent policy and to require one year's notice of termination. As already pointed out in this instruction the provisions of the third paragraph of Article XXIX permitting the termination of the sixth and seventh paragraphs of Article VII and the whole of Articles IX and XI at the end of one year are the counterpart of a reservation made by the Senate of the United States in giving its advice and consent to the ratification of the Treaty of Friendship, Commerce and Consular Rights, signed by the United States and Germany on December 8, 1923. A like provision in regard to the duration and termination of the provisions in the treaties with Hungary and Estonia corresponding to the sixth and seventh paragraphs of Article VII and Articles IX and XI of the draft was accepted by those countries. From the point of view of this Government such a provision is necessary.

Article XXX provides for the exchange of ratifications which, if the Treaty is signed at Paris, will normally also take place at that capital.

This Government reserves the right to propose minor changes in the draft throughout the negotiations.

This Government is desirous that the conduct of negotiations be expedited as much as is consistent with devoting a proper consideration to the subject matter. The Department would like to submit the signed treaty to the Senate for its advice and consent to ratification at its session which will convene in December next.

I am [etc.]

FRANK B. KELLOGG

102.81/2793 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

[Extract]

PARIS, September 2, 1927—6 p. m.

[Received September 3—12:12 a. m.]

330. For Department of Commerce from commercial attaché:

"Decree published August 31 and effective September 6⁶⁰ provides many tariff increases in chemicals, pottery, glassware, paper goods, machinery, leather, electro, technical, photographic goods, cutlery, hardware, scientific instruments, and other schedules specified in commercial treaty with Germany signed August 17 granting minimum rates. New minimum rates considerably higher and new general rates four times minimum. Many substitutions of ad valorem for specific rates."

WHITEHOUSE

611.5131/552 : Telegram

The Acting Secretary of State to the Chargé in France (Gordon)

WASHINGTON, September 3, 1927—1 p. m.

260. Your 330, September 2, 6 p. m. It would appear from the information at the Department's disposal that the new Franco-German commercial agreement⁶¹ provides for certain German imports into France customs duties which are substantially lower than those imposed upon corresponding American products. You should consult with the Acting Commercial Attaché to determine whether substantial discrimination against American goods exists and should you find that it does you should make observations to the French Government in the following sense:

Inasmuch as this Government is, in fact, according to French products most-favored-nation treatment, this discrimination against certain American goods in favor of German goods is creating a definitely unfavorable impression in American business circles and in the press. The Department realizes that in the absence of a commercial treaty with France this Government is not in a position to ask most-favored-nation treatment for American goods in France as a matter of right. However, it has expressed its willingness to proceed without delay for negotiations for a commercial treaty and it has no reason to believe that the French Government is disinclined

⁶⁰ Decree dated Aug. 30, 1927; printed in France, *Journal Officiel: Lois et décrets*, Aug. 31, 1927, p. 9163.

⁶¹ I. e., of Aug. 17, 1927; League of Nations Treaty Series, vol. LXXVI, p. 5.

to such negotiations. It therefore hopes that the French Government as a measure of reciprocity will now give assurance that it will impose upon American goods in France no higher duties than those imposed upon German goods as a result of the recent Franco-German agreement, until negotiations for a commercial treaty are consummated, thus avoiding all possible prejudice to these negotiations which, this Government confidently hopes, can be initiated at an early date.⁶²

Report action taken and results by telegraph, as it is important both for this Government and for American business interests to know as soon as possible just what the attitude of the French Government is going to be.

CASTLE

611.5131/551 : Telegram

The Chargé in France (Gordon) to the Secretary of State

[Paraphrase]

PARIS, September 3, 1927—1 p. m.

[Received 4 p. m.]

331. In the course of conversations with the official of the Foreign Office who is directly in charge of the French-German treaty and the new tariff connected with it during which I urged that the new general tariff rates as they apply to American goods be held in abeyance temporarily at least, I said that the United States was prepared to enter into negotiations for conclusion in very near future of comprehensive commercial treaty. Official replied that this was welcome news and that Foreign Office would be ready to take up matter at any time after October 1. He then intimated that with initiation of negotiations, amelioration of disadvantageous incidence of new tariff upon American goods might be looked to; thereupon I raised question of American goods which were shipped before promulgation of the new tariff decree, as arrival before September 6 is physical impossibility. In reply I was told that as decree contains no provision to safeguard such cases the new duties must go into effect for all goods which arrive on September 6 irrespective of the circumstances. I stated that while I appreciated reasons applying to neighboring European countries which caused France to give shortest notice possible before new tariff becomes effective, a gross inequity would be worked as regards us, and I urged strongly that some way of meeting our situation be found.

⁶² Substance of this paragraph communicated to the French Government in an *aide-mémoire*, September 7.

I have just been informed that the customs administration, which is under the Ministry of Finance, thinks that any favorable measures extending exception to us would be illegal, but that the Foreign Office has brought the Ministry of Commerce around to our position and both now insist that the new rates should not apply to American goods now in transit, so that customs administration is willing to waive this view and comply with our request provided that Minister of Finance (Poincaré) sees no objection. My informant from the Foreign Office added that in his opinion the chances are considerably more than even that objection will not be raised.

GORDON _

611.5131/556 : Telegram

The Chargé in France (Gordon) to the Secretary of State

PARIS, September 8, 1927—7 p. m.

[Received 7:06 p. m.]

341. My 339, September 8, 10 a. m.⁶³ Pressed matter again vigorously at Foreign Office this afternoon. In conclusion I suggested concretely that either by decree or ministerial regulation the application of new general tariff to American goods be suspended for a given length of time sufficient to enable negotiations to be consummated. I pointed out that for France to get the maximum benefit from such a step it should be taken at once before public dissatisfaction at home would gather greater momentum. Beaumarchais⁶⁴ said he agreed to this and promised to take the matter up immediately with the Ministers concerned (Finance and Commerce) and give an answer at earliest moment possible.

[Paraphrase.] My impression is that Beaumarchais felt our arguments to be strong and that in the discussions with the Ministries of Finance and Commerce he would press them or at least support them. [End paraphrase.]

Beaumarchais said that if any such measure were to be adopted, commercial treaty negotiations should start at once. I replied that we were willing even before the first week of October (see Department's 260, September 3, 7 [1] p. m., and my 331, September 3, 2 [1] p. m.), but that if French preferred to await that date we were prepared to initiate them at that time. Will the Department please confirm this so that it may be given to the Foreign Office in writing?

GORDON

⁶³ Not printed.

⁶⁴ Delarüe Caron de Beaumarchais, Director General of Political and Commercial Affairs, French Ministry for Foreign Affairs.

611.5131/556: Telegram

The Secretary of State to the Chargé in France (Whitehouse)

[Paraphrase]

WASHINGTON, September 10, 1927—11 a. m.

268. Department desires that you present draft treaty immediately and inform French Foreign Office that this Government is ready to begin negotiations.⁶⁵

KELLOGG

611.5131/562

Memorandum by the Secretary of State of a Conversation With the French Ambassador (Caudel)

[WASHINGTON,]. September 14, 1927.

The French Ambassador took up with me the question of the tariff. He said that he had seen in the papers a good deal of criticism about the tariff; that he had not received any direct information from his Government on the subject. Whereupon I explained it to him. I stated that the recent measures taken by France involved serious discriminations against American commerce, which were placing American exporters at a material disadvantage. The United States makes no discrimination against French commerce, but gives it most-favored-nation treatment. The only exception is the case of Cuba, to which the United States has a special relation, and the case of dependencies and possessions (with respect to which each government naturally preserves the right to establish special tariff measures).

I stated that France is the only country now discriminating against the United States, so far as I know; that the United States had made a considerable number of treaties and other agreements providing for full most-favored-nation treatment, and that we hoped to make such a treaty with France. The recent Franco-German Commercial Treaty had not led to any discriminations by Germany, which gave American commerce the benefit of the concessions made to Franco. On the other hand, France discriminates against American commerce in favor of that of Germany, Great Britain and other countries.

The French Ambassador stated that France had no treaty with the United States providing for most-favored-nation treatment. France regulated its commercial relations by means of reciprocity treaties. There had been considerable complaint in France with respect to American tariff treatment of French goods. In particular there had been criticism at the exclusion of French wines by reason

⁶⁵ On Sept. 12, 5 p. m., the Chargé telegraphed: "346. Have just handed in draft of treaty to the Foreign Office. Whitehouse." (File No. 611.5131/558.)

of the American prohibition law. I observed that we still get substantial quantities of wines from France for sacramental and medicinal purposes. The Ambassador stated that Germany had given special favors to the French wine industry; that the industry is very important in political influence in France.

The Ambassador indicated that France would desire special favors to her trade as a condition of giving most-favored-nation treatment. I explained to him that arrangements of that kind are not contemplated by American law. The tariff of 1922 (Section 315) authorizes the President to change duties by not more than 50 per cent. when warranted as a result of findings of the Tariff Commission as to the cost of production in foreign countries as compared with that in the United States. Investigations of cost of production, however, are not designed for bargaining and facts, when established, may lead to increases as well as decreases.

I also referred to Section 317 of the Tariff Law and explained the power of the President to declare additional duties with respect to the commerce of countries discriminating against the United States. We have not been obliged to use Section 317 up to this time because we have succeeded in negotiating commercial agreements which have done away or prevented discrimination against American trade. If, however, France continues to discriminate against American trade, I did not see how we could avoid using Section 317 and increasing the rates against French goods. I promised to furnish the Ambassador with a marked copy of the Tariff Law. (Mr. Young will do this).

I explained to the Ambassador that a number of weeks ago we had sent to Paris the draft of a treaty as a basis for discussion. This draft was presented on September twelfth. I stated that it had been my hope that the treaty might be negotiated at Washington; that matter, however, could be adjusted.

611.5131/563 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

PARIS, September 15, 1927—4 p. m.

[Received 8:33 p. m.⁶⁵]

352. My 350, September 14, 5 p. m.⁶⁷ The following *aide-mémoire* was handed me this morning by Foreign Office. Owing to its importance I am transmitting it textually.⁶⁸

⁶⁵ Telegram in four sections.

⁶⁷ Not printed.

⁶⁸ Translation slightly revised, from the French text forwarded with despatch No. 7898, Oct. 4, 1927, printed on p. 681.

"The French Government has noted the proposals and requests contained in the *aide-mémoire* which the First Secretary of the Embassy of the United States was good enough to forward to the Political Director of the Ministry for Foreign Affairs on September 7.

The French Government has considered, with the most cordial desire to do justice to American interests, the situation arising from the tariff reform of August 30, 1927.

There can be no misunderstanding that this reform implies as regards certain products originating in and coming from the United States which are not included in lists A and B of the *modus vivendi* of March-April 1910⁶⁹ an augmentation resulting both from the increase of basic duties and the withdrawal of the benefits which article 2 of the decree of March 28, 1921,⁷⁰ assured to the said products.

But it has appeared to the French Government that the benefits assured by this decree as to American products without any contractual obligation constituted a measure motivated in 1921 by exceptional circumstances and particularly by the monetary position of certain European states to which other states had taken exception or had claimed the benefit of these advantages and that finally the exceptional treatment which they implied for the United States was not in harmony with the constant increase in the American tariffs and the reinforcement of customs barriers practiced by America since that time to the detriment of certain specific products of the French trade.

The French Government has therefore deemed that it should return, on the occasion of the customs reform instituted in consequence of the Franco-German treaty, and within the limit of this reform, to the legal position which resulted from the simultaneous acts of 1910.

It welcomes on the other hand with the greatest satisfaction the offer made to it by the Government of the United States to substitute for these simultaneous acts which have only given an incomplete status to exchanges between the two countries a treaty giving to individuals and corporations of each of the two states as well as to their trade and navigation extended guarantees consistent in all points with their traditional friendship.

As the American Government suggests, the French Government is ready to begin within a few weeks the negotiation of a treaty of this nature but it believes however that it should subordinate its adhesion to a preliminary assurance.

Today, as during the laborious negotiations carried on from 1897 until 1910, the French Government believes that it is not possible to place on the same level the indiscriminate application of the common customs law practiced by the United States which excludes any present or eventual favor being granted to third states and the positive advantages of the most-favored-nation treatment and of the granting of the minimum French tariff.

On the other hand the French Government is of the opinion that the prohibitive regime resulting for certain French products from the particularly high tariffs which the United States has in force at present and the moderate rates of the French minimum tariff

⁶⁹ Law of March 29, France, *Journal Officiel*, Mar. 30, 1910, p. 2621; decree of April 4, *ibid.*, Apr. 5, 1910, p. 2975.

⁷⁰ France, *Journal Officiel: Lois et décrets*, Apr. 3, 1921, p. 4155.

which offer to American exporters generous possibilities on the French market cannot be considered as equivalent.

The French Government cannot therefore consider that article 7 of the preliminary draft presented by the American Embassy under date of September 12th constitutes a favorable basis for the negotiations which it is disposed to undertake. It would like to receive the assurance of the American Government that it agrees to consider that the negotiations which are about to be undertaken must on the one hand guarantee to America a treatment of more complete equality with its most-favored competitors on the French market under the regime of granting the minimum tariff to the principal exported products and on the other hand guarantee to French exports advantages of the same nature on the American market not only by the application without discrimination of the tariff of the United States but also, should there be occasion, by such reductions or adaptations of this tariff as might appear necessary to permit the sale of certain specific French goods on the American market.

If the French Government were to receive this preliminary assurance which appears to it to be the indispensable starting point for the elaboration of a treaty consistent with equity and the interests of the two countries, it would be disposed, in order to facilitate the negotiations and to permit their development in an atmosphere of active cordiality, to enact immediately a decree diminishing by 50 percent the surplus rates instituted by the decree of August 30 for the benefit of products originating in and coming from the United States which, not being covered by the statute of 1910, find themselves at present subjected to the maximum rates of the said tariffs.

This highly conciliatory measure would take place immediately after an exchange of letters specifying the object which the two Governments have in view in opening the negotiations for a definite treaty.

It may be withdrawn if these negotiations should not bring forth the happy result that the two Governments hope for.

Paris, September 15, 1927."

[Paraphrase]

Commenting on its *aide-mémoire* the Foreign Office said that the observations made by the American Government (as set forth in Department's telegram No. 260, September 3, 1 p. m.), constituted request for maximum benefit possible and that the Government of the Republic, without appropriate compensation, could not grant this; that the minimum rates which were granted to Germany after 3 years of laborious negotiation had been balanced by very substantial concessions by Germany to French exports, and that it seemed unreasonable that a nation which has no contractual commercial relations with France should expect to obtain, automatically, equal benefits.

In reply I pointed out that France enjoys most-favored-nation treatment from us, and that all we are asking is that same treatment

be accorded us provisionally until treaty negotiations can be consummated.

The Foreign Office replied that to say we granted France most-favored-nation treatment was to its mind a misnomer; that all we do in reality is to refrain from discriminating against France, and consequently France feels that even for transitory period we are seeking an extremely large concession for which, as a return, we should offer some *quid pro quo*. As Department will note, French *aide-mémoire* raises at once fundamental question of principle concerning basis of commercial treaty negotiations.

The Foreign Office stated that in its offer to us of 50 percent reduction in general tariff, the French Government was paying us good money in return for promises. I asked how it could be thought that we could promise either reductions or adaptations for specific benefit of French commodities when provisions of Tariff Act of 1922 are well known to the Government of the Republic; I added that I felt confident that the Government of the United States would not be able to contemplate treaty negotiations on any such basis as that, and that I felt obliged, on the other hand to refer to the provisions of section 317 of the present tariff law.

I regret to say that the Foreign Office insisted that present offer constituted really friendly effort to satisfy us, and that means can be found for agreements within its scope (the Department will please note in this connection the elasticity of the important phrase which begins "should there be occasion," referring to tariff reductions by us).

I said in conclusion that while I should report immediately and fully to my Government, I was unable to conceal my disappointment and my fear that the consequences which would follow in the United States as result of persisting in application of new general tariff rates and which I was earnestly hoping to avoid, would not be either retarded or averted by present answer of the French Government.

I am still under impression that the Foreign Office to greater or less extent realizes disastrous effects of uncompromising attitude in this matter, but that it has encountered determined opposition in Ministry of Commerce and possibly in Poincaré himself. If the Foreign Office is to have its hands strengthened in further discussion with other interested French Ministries, this result could probably be best brought about by urgent recommendations from the French Ambassador in the United States. For that reason I respectfully suggest that power of President to increase duties 50 percent be brought prominently to his attention.

WHITEHOUSE

611.5131/574

*Memorandum by the Assistant Secretary of State (Castle) of a
Conversation With the French Ambassador (Claudel)*

[WASHINGTON,] September 19, 1927.

The French Ambassador called to read to me part of the message he had had from his Government on the general tariff subject. He asked whether Mr. Whitehouse was right in saying that the answer made by the Foreign Office would be unacceptable to this Government. I told him that Mr. Whitehouse was entirely correct. I said that I had been surprised that the French Government did not realize that under our law it was impossible for us to negotiate any treaty containing reciprocal tariff favors. He asked whether we would not be willing in that case to lower the duties on some of the goods imported from France. I told him that this was at the moment quite impossible, that it could only be done by Congressional action and only in connection with a general revision of the tariff schedule. I said there was no possibility that Congress would take up the matter this winter and that I could, of course, give no assurance that any change would be made in anything like the immediate future. I pointed out to him, however, that although it was true that our tariff was fairly high so far as a great many of the things introduced from France was concerned, that it nevertheless had not prevented those goods from coming to this country and that the trade with France was steadily increasing.

He asked me what we meant by general most-favored-nation treatment and I told him we meant exactly what the phrase indicated and exactly what had been accepted as the meaning of the phrase in the International Economic Conference.

He asked whether in case France had an agreement with all countries of the world giving them the minimum tariff rates and did not apply minimum tariff rates to the United States, we should consider it discrimination. I told him it was obvious that it would be discrimination. He then asked whether if France had a treaty with only one nation giving minimum rates and imposed maximum rates on all the rest of the world we would consider this discrimination. I said that we should; that the point was that we felt the only reasonable and safe international trade relation must be based on equality of treatment toward all people. I said that if in negotiating a treaty France should refer to the fact that she had certain engagements with Morocco, for example, we should undoubtedly put through the treaty without asking France to give up those engagements just as if it was necessary for us to make certain exceptions in the case of Cuba. I said that one of the very important aspects of this whole situation was that in the

special exceptions that might be made in a treaty both sides knew that whatever changes might be made in tariff rates in the future they would apply equally to everybody outside of the exception. The Ambassador said he very much dreaded a tariff war if we should impose extra duties under Article 317, and I said that we also would keenly regret any such thing and that for this reason I hoped that France might be willing to fall into line with the rest of the world and accept the thesis which we were pressing, which had already been accepted by everyone else.

I told him that it seemed very strange to me that France should be giving special favors to Germany, for example, at the expense of the United States. He asked whether, if we added fifty per cent under Section 317, we would do it to all French imports or only an amount of imports equal to the amount of American exports affected by the new French tariff. I told him that I could not answer this question; that we should not consider the amount; that possibly we might want to put extra duties on a very large proportion of imports from France. I pointed out to him that the only excuse for the double column of duties in France was to give a bargaining point and that inasmuch as France seemed to insist on bargaining it might be wise for us to have a good solid amount to bargain with.

The Ambassador said he would keep me informed of any word he got from his Government and I promised to send him a copy of such memoranda as we might telegraph to Paris.

W[ILLIAM] R. C[ASTLE, Jr.]

611.5131/563 : Telegram

The Acting Secretary of State to the Chargé in France (Whitehouse)

WASHINGTON, September 19, 1927—8 p. m.

282. Your 352, September 15, 4 P. M. At the direction of the President please present the following *aide-mémoire*:

"The Government of the United States has received the *aide-mémoire* of the French Government on the subject of possible tariff arrangements to be made between the two Governments pending the negotiation of a definitive treaty. This *aide-mémoire* touches also on the French conception of certain principles which might be included in such treaty. The Government of the United States is both surprised and disappointed at the attitude of the French Government as therein expressed. It had supposed that the French Government fully understood that the American law which fixes the tariff on imports does not envisage the conclusion of a treaty of reciprocity in regard to rates of duty.

Passing, indeed, beyond the mere limitations of the law into the broader field of international trade relations, it is the profound belief

of the American Government that the only satisfactory basis of such relations is to be found in the domain of equal treatment of the trade of all nations. Any other policy can lead only to confusion and misunderstanding, and, in the opinion of the American Government, is opposed to the soundest principles of world economics and essentially of world good will. Unless the principle of equality of treatment to all is admitted there can be no confidence in the stability of trade relations and the beginning of such discriminatory action can only lead to its extension throughout the world, thus creating trade groups, combinations against weaker nations, reprisals, and a long train of political and economic dangers. The principle of general most-favored-nation treatment in its broadest form, as the basis of commercial treaties, was unanimously recommended by the members of the Economic Conference recently held in Geneva as a principle to be followed. This principle there had the endorsement of the French members.

It is the understanding of the American Government that the principles on which the French Government fixes its tariff are those expressed in 1891 by Monsieur Meline in his report on March 3 to the Chamber of Deputies. Monsieur Meline said at that time:

"The producer demands, as is his right, that account be taken of the heavy costs which burden his labor and of the disadvantages to which he should not be subjected. In the formation of a customs tariff, he asks that the legislature measure exactly [the differential which separates him from] his foreign competitor, and that the tariff rate inscribed in the Act be the representation of this differential.

"Your commission believed this demand proper, and it is upon this basis that it has tried to perform the difficult work which you have entrusted to it. It has searched for the exact rate which seemed indispensable for each branch of industry and agriculture to assure its existence and free development. It has considered that to give to the tariff a real value and to give courage and confidence to French production, it is important, above all, to fix the minimum rate which will be assured to them and below which in future there will be no concessions. It is upon this fundamental principle that our minimum tariff policy is based; it is this that determines its real character.'

This theory was restated in 1906 by Monsieur Morel, who said:

"We have been entirely guided by the fundamental rules laid down by the founders of the customs régime of 1892 . . ."

"Your commission . . ." has tried to measure exactly the differences which exist between the French producer and his foreign competitor by reason of the costs which burden his work and the disadvantages which exist through no fault of his, and it has placed in the minimum tariff the figure representing this difference.'

It is precisely on this theory of protection that the rates of duty of the American Tariff Law rest, and it is believed that a tariff designed for the protection of producers and the raising of revenue is not open to objection by other governments when it is applied equally to all. The Government of the United States would therefore not criticise non-discriminatory tariff rates imposed by France since it considers that rates are a matter solely of internal policy. It feels, however, that a protest is justified when these rates do not apply equally to all nations. The American Government is not now making any criticism

¹ Bracketed correction transmitted to the Chargé in France in telegram No. 292, Sept. 26, 1 p. m.

² Omission indicated in the original telegram.

of the non-discriminatory rates France has adopted but objects only to the fact that France is discriminating against the trade of the United States by applying to many categories of American goods rates in some cases four times as high as upon similar articles imported from Germany and other countries competing with the United States in the French market.

While the rates of duty of the American tariff rest upon the same theory of protection as do the 'minimum' rates of the French tariff, it may be pointed out that the so-called 'general' or 'maximum' rates of the French tariff, in the words of the report of French Commission on Tariffs and Commercial Conventions submitted to the Chamber of Deputies on March 25, 1927 (document No. 4220), are devised 'in order to leave to the negotiators of commercial agreements the margin between the duties in the two columns as the essential counterpart which they [may give in exchange for the advantages which they] ⁷³ wish to procure.' The existing rates of the American tariff, it should be noted, embody no such margin for bargaining.

The French Government appears to entertain the view that France is justified in discriminating against American trade because it considers that the average rate of duty imposed by the United States on imports from France is higher than the average rate imposed by France on imports from the United States. But this is not discrimination. Our rates are uniform on these imports, they are the same for others as for France. This argument, moreover, is not admitted by the Government of the United States, which, as stated above, considers tariff rates a domestic matter and at the same time considers all discrimination to be unjustified. If the rates of duty on articles imported into the United States from France are proportionally higher than on those exported from the United States to France the reason is merely that a large part of American imports consist of manufactured articles and luxuries, whereas an equally large proportion of French imports from America are raw materials. Furthermore, the higher duties in the present tariff law charged in the United States on the imports from France have not decreased the flow of French goods as is evidenced by the fact that in 1921 imports from France amounted to \$141,885,000, whereas in 1926 they amounted to \$152,030,000 [*\$152,020,000* ⁷⁴]. Moreover in any consideration of trade relations between France and the United States it is necessary to bear in mind the very large invisible exports [of France by reason] ⁷⁵ of expenditures of American tourists amounting to well over \$200,000,000 annually.

The American Government points out that it is entirely impracticable for countries to apply to each other's trade exactly or even approximately the same average rates of duty, which appears to be the logical conclusion of the French contention, in view of the varying commodities entering into international trade as well as the differences in price levels, purchasing power and other conditions of the respective

⁷³ Bracketed correction transmitted to the Chargé in France in telegram No. 292, Sept. 26, 1 p. m.

⁷⁴ This is the figure given in *Foreign Commerce and Navigation of the United States for the Calendar Year 1927*. See tables, vol. I, p. x, and vol. II, p. 52.

⁷⁵ Bracketed correction transmitted to the Chargé in France in telegram No. 283, Sept. 20, 10 a. m.

countries. In the trade between the United States and Brazil the position of the United States is the reverse of that existing with France. About ninety-five per cent of the imports into the United States from Brazil are entirely free of duty, while a large proportion of all American exports to Brazil are dutiable. Yet the American Government does not, for this reason, contend that ninety-five per cent of the goods from the United States which are imported into Brazil should be admitted free of duty. On the contrary the Government of the United States can not object to whatever duty may be levied by France or Brazil, or any other nation, when there is no discrimination as between the United States and other countries. Absence of discrimination is a cardinal principle of clean-cut and friendly trade relations.

The policy of the American Tariff Law makes no discrimination whatsoever between articles imported from different countries. Furthermore discrimination in world trade against the United States has practically ceased. It is France alone, at the present time, which seriously discriminates against American products. Article 317 of the present American Tariff law gives the Executive the right to impose additional duties on goods coming from a country which discriminates in its tariff against the trade of the United States. The American Government is very loathe to increase its tariff on articles imported from France which is clearly at the present time practicing serious discrimination as contrasted with its treatment of similar goods imported from other nations which are competitors of the United States. It has so far refrained from doing so since it believes that upon reconsideration the French Government will realize the essential justice of the American principle already, as noted above, endorsed by representatives of the other nations of the world assembled in conference at Geneva, that it will hesitate to discriminate against a nation which has always maintained an intimate friendship with France, and will therefore see its way clear both to the negotiation of a treaty guaranteeing general most-favored-nation treatment and to suspending in the interim its manifest discrimination against American products."

The above memorandum has been read to the Secretary by telephone and has his full endorsement. In presenting it to the Foreign Office you should make clear that the Department expects a very prompt answer.

CARR

611.5131/617

The Chargé in France (Whitehouse) to the Secretary of State

No. 7898

PARIS, October 4, 1927.

[Received October 13.]

SIR: I have the honor to forward herewith a mimeographed copy and translation of the first French note dated September 15, 1927,⁷⁸ and of the latest French note dated September 30th, concerning the

⁷⁸ See telegram No. 352, Sept. 5, 4 p. m., from the Chargé in France, p. 673.

situation raised by the new French tariff and the proposed negotiations for a commercial treaty.

In view of the Department's telegraphic instruction No. 287 of September 22,⁷⁷ directing this Embassy to forward by mail to all diplomatic missions in Europe copies of the first French note and of the Department's reply,⁷⁸ it is presumed that the Department desires these missions to be kept informed of further developments in this situation. Accordingly copies of the French text and a translation of the note of September 30th are today being sent forward, and the text and translation of any further notes that may be exchanged will likewise be transmitted.

I have [etc.]

SHELDON WHITEHOUSE

[Enclosure—Translation⁷⁹]

The French Ministry for Foreign Affairs to the American Embassy

[PARIS,] September 30, 1927.

The *aide-mémoire* which the Government of the United States delivered on September 20 to the French Government has been the object on the part of the latter of an especially exhaustive examination which gives rise to the following remarks:

1. The principle of the equality of commercial relations which the Government of the United States declares is the only sound basis of international relations and the only guarantee against a number of political or economic dangers which it recites in detail is far from having received the unanimous adhesion which the Government of the United States deems it to have obtained.

It is true that this doctrine was formulated in the United States during the latter part of the 19th century and "the equality of commercial conditions" completed, it is true, by "the abolition of economic barriers" was presented by them to the Allied and Associated Powers as one of the conditions for the reestablishment of peace.⁸⁰ But the principle of equality of economic conditions even completed by the abolition of economic barriers was not held by the Peace Conference of 1919 to be a sufficient guarantee in itself to ensure fair and peaceful relations between nations and it is not the equality of commercial conditions but the more comprehensive formula of the equitable treatment of commerce which is contained in article 23 (e) of the Covenant of the League of Nations.⁸¹ There is no doubt either that the choice of this formula was dictated by reasons of necessary fair reciprocity and liberalism.

⁷⁷ Not printed.

⁷⁸ See telegram No. 282, Sept. 19, to the Chargé in France, *supra*.

⁷⁹ The translation revised.

⁸⁰ See *Foreign Relations*, 1918, supp. 1, vol. I, p. 15, paragraph numbered III.

⁸¹ Malloy, *Treaties*, 1910-1923, vol. III, pp. 3336, 3344.

When in 1922 the nations of Europe again met at Genoa⁸² it was not again the simple formula of equality of commercial conditions that they envisaged as the guarantee of economic restoration. In fact, article 9 of the Genoa proceedings states:⁸³

"The Conference recalls the principle of the equitable treatment of commerce set out in article 23 of the Covenant of the League of Nations, and earnestly recommends that commercial relations should be resumed upon the basis of commercial treaties, on the one hand resting upon the system of reciprocity adapted to special circumstances, and on the other hand containing, so far as possible, the most-favored-nation clause."

All later technical conferences, in the first rank of which should be placed the International Conference for the Simplification of Customs Formalities,⁸⁴ admit that discrimination can be envisaged and content themselves with condemning unfair discrimination (article 2 of the convention).

Lastly, since the Government of the United States refers in its *aide-mémoire* to the conclusions of the recent International Conference at Geneva, it should be specified that the latter while proclaiming that "the mutual grant of unconditional most-favored-nation treatment as regards customs duties and conditions of trading is an essential condition of the free and healthy development of commerce between states," admits immediately afterwards that it is for each country to decide "in what cases and to what extent this fundamental guarantee should be embodied in any particular treaty."⁸⁵

But what is most important to note is that the Economic Conference of Geneva, to which the American Government refers, did not only recommend the reciprocal granting in as large a measure as possible of the most-favored-nation treatment but placed in the foreground of its declarations the necessity of lowering excessive tariffs by common agreement. At the beginning of the chapter relating to commercial policy and commercial treaties it declares:⁸⁶ "The main conclusion to be drawn from the work of the Conference in the field of commercial policy is that the time has come to put a stop to the growth of customs tariffs and to reverse the direction by an effort made along three lines, viz.: (1) individual action by states with regard to their own tariffs; (2) bilateral action through the conclusion of suitable commercial

⁸² April 10 to May 19, 1922. The United States was not officially represented; see *Foreign Relations*, 1922, vol. i, pp. 384ff.

⁸³ Great Britain, Cmd. 1867 (1922), *Papers Relating to International Economic Conference, Genoa, April-May, 1922*, p. 72.

⁸⁴ The United States was not represented, except by an observer, and was not a signatory of the convention, signed Nov. 3, 1923; League of Nations Treaty Series, vol. xxx, p. 371.

⁸⁵ League of Nations, *Report and Proceedings of the World Economic Conference*, vol. i (C.356.M.129.II-C.E.I.46) (Geneva, 1927), p. 43.

⁸⁶ League of Nations, *Report and Proceedings of the World Economic Conference*, vol. i, p. 39.

treaties; (3) collective action, by means of an inquiry, with a view to encouraging the expansion of international trade on an equitable basis by removing or lowering the barriers to international trade which are set up by excessive customs tariffs."

Thus the Economic Conference at Geneva associates with the idea of equality of commercial conditions the reduction by autonomous or contractual means of the excessive tariffs at present in force and it is in full conformity with the doctrine of this Conference, warmly upheld by the French delegation, that the French Government has proposed to the Government of the United States a treaty based on both the application in as large measure as possible of the most-favored-nation clause and on the customs adjustments which might seem necessary in order to favor the commerce of the two countries.

France has on the other hand already applied the two inseparable aspects of the doctrine proclaimed by the Geneva Conference in a recent agreement with Germany. She is preparing other treaties on the same bases and she is able to note, in the course of the negotiations which she is pursuing, that most of the countries of Europe would consider not as progress but as a step backwards in commercial policy a partial application of the Geneva doctrine by virtue of which, whatever may be the commercial advantages exchanged, most-favored-nation treatment should be granted indifferently to all countries without taking into account the protectionism of some and the liberalism of others in such a manner that there would result a benefit for the former to the detriment of the latter and a miscarriage of justice as regards the contracting state itself.

2. This opinion is furthermore in accordance with the one which the United States endeavored to make prevail in the world when in 1778 in their treaty with France⁸⁷ they introduced the conditional clause of most-favored-nation treatment and the obligation of a fair compensation for the advantages accorded by them to a third state and claimed by the contracting state.

The later declarations of President Monroe and President John Quincy Adams also proclaimed that the most-favored-nation clause could only be granted in exchange for special advantages. It would also be easy to invoke the jurisprudence of the Supreme Court of the United States, which decided, notably with regard to a treaty between the United States and Denmark,⁸⁸ that the most-favored-nation clause obligated the two countries to avoid a hostile or discriminatory legislation but that its object was not to interfere with the commercial arrangements with other countries founded on the concession of reciprocal privileges.⁸⁹

⁸⁷ Miller, *Treaties*, vol. 2, p. 3.

⁸⁸ Convention of Apr. 26, 1826; Miller, *Treaties*, vol. 3, p. 239.

⁸⁹ *Bartram v. Robertson*, 122 U. S. 116.

Lastly, it was to respond to that constant underlying idea of equilibrium that the United States, during the 19th century, drew up a series of contractual systems the history of which was recently written by a former Chairman of the Tariff Commission,⁹⁰ and all of which tended to establish a reciprocity in fact.

When the Government of the United States abandoned its efforts in this direction a few years ago⁹¹ one may wonder if the principal reason was not, in view of the rising level of its rates, that it preferred the liberty of autonomous tariff action to a policy of tariff contracts whose first result would have been, generally speaking, to impose sacrifices upon it.

It is true that the Government of the United States has thought that it could invoke not only international doctrine but French law itself. To bring out the essence of this law it relies upon the statements of Monsieur Meline and Monsieur Jean Morel. But the French Government cannot approve the presentation of French tariff law which the Government of the United States believed it its duty to make to it any more than it can its exposition of international law.

The tariff doctrine of France has been unvarying since 1892 but it does not correspond to the notion the American Government has of it.

Indeed, the law of 1892 stipulated in its first article that "the minimum tariff may be applied to goods of countries allowing French goods to benefit by correlative advantages and which will apply to them their lowest tariffs".

This text expressly provides therefore that the absence of discrimination does not suffice to justify the granting of the minimum tariff but that in addition there must exist advantages correlative to those included in the French minimum tariff.

Since the law of 1892, commented upon by M. Meline, and since the report of M. Morel in 1906, the French Government has always subordinated the granting of the minimum tariff, that is to say the most-favored-nation clause, to the reciprocal granting of a regime favorable to its trade.

From 1892 to 1914 France concluded many treaties of commerce in which the concession of the French minimum tariff is limited to certain articles in view of the not very favorable regime which the contracting states granted in general to the French export trade; and it is on the basis of this French tariff law itself that the governments which from 1897 to 1910 negotiated with the United States in conformity with the doctrine which the Government of this country is invoking were not able to see their way clear, in view of the disparity

⁹⁰ Presumably Frank W. Taussig, Chairman of the United States Tariff Commission, 1917-1919; author of *Free Trade, the Tariff and Reciprocity* (1919).

⁹¹ The Tariff Act of 1909 (36 Stat. 11) repealed existing provisions of law providing for reciprocity arrangements.

of French and American tariffs and in view of the inequality of the advantages resulting from the general tariff established by the United States and the minimum tariff in force in France, to establish the relations of the two countries on the reciprocal granting of the most-favored-nation treatment.

The granting of the minimum tariff has never been considered by the French Government as the starting point of a negotiation but as the outcome of a compromise which has secured for French export trade the necessary safeguards.

It is in conformity with this spirit that the law of 1919 (which the Government of the United States did not mention) stipulated that in commercial conventions France could accord "reductions in the rates of the general tariff calculated in percentages on the difference existing between this general tariff and the minimum tariff". The law of 1919 thus makes it clear that the granting of the minimum tariff does not indicate the minimum concession and the usual regime but the maximum concession and exceptional treatment which negotiators can, in exchange for correlative advantages, accord to foreign countries.

In the opinion of all the French Governments which have succeeded each other, the granting of the minimum tariff may be claimed as a matter of law but can only be obtained as a matter of fact by the states which assure to French products real possibilities of sale on their market.

It is in conformity with this same conception that the French Government in its explanatory statement of the draft tariff bill which it recently submitted to Parliament contemplated that in case the needs of the French export trade should be met by an equitable regime the most liberal application could be made of the law of 1919, namely, the general and unconditional granting of most-favored-nation treatment.

It is this treatment which the French Government has envisaged for the United States, if, however, the United States is disposed to assure to French commerce equitable conditions and possibilities of facilities to which, in order to respect the fundamental laws of the Republic, the Government must subordinate the favorable treatment which it offers to the United States.

The United States cannot be surprised that France should wish, in order to safeguard its exchanges and commercial balance, to obtain contractual guarantees. She must do so in the interest not only of her monetary and economic restoration but also of her international engagements. As the American experts were the first to say in the Dawes plan⁹² any country can only secure for itself possibilities of transfer by the sale of its goods.

3. The Government of the United States draws, moreover, from its trade with France and with foreign countries an ensemble of deduc-

⁹² See *Foreign Relations*, 1923, vol. II, pp. 46 ff.

tions tending to prove that France is not subjected to any discrimination; that this general regime which the United States accords it has not been unfavorable to its commerce and that in order to improve this commerce there is no need to provide any concession.

France is not complaining of being discriminated against by the United States; what she is complaining of is being subjected together with other states to a restrictive regime which, in view of the character of her production, is more prejudicial to her than to others and which although applicable to everybody has hit her commerce most particularly.

When the Government of the United States invokes in support of its argument the comparison of our exports of 1921 and 1926, specified in dollars, it is no doubt fair to object that the year 1921, when France still bruised by the German devastation was incapable of exporting, cannot serve as a term of comparison.

Even if the figures of 1921, that is, \$141,885,000, are a trifle higher than those of 1913, which amounted to \$136,877,990, in order to appreciate in an equitable manner the fate of French exports to America it is from these latter figures that calculations must be made taking into account moreover the world-wide increase of prices even when specified in dollars and France's present power of exportation as compared with that of before the war.

If the regime which the United States imposed on French exportation had not been subjected since 1913 to regular restrictions both by the schedule of rates of the Fordney bill ⁹⁸ and by the manner in which they have been applied, the figure of \$136,878,990 for 1913 should have amounted in 1926 to about \$200,000,000 taking into account the increase which prices specified in dollars have undergone and the new possibilities of French exports.

It may therefore be rightly concluded that if the French exports of 1913 came to \$136,877,990 and if the exports of 1926 are limited to \$152,020,000, that signifies that French export trade to the United States has undergone a formidable restriction.

It is impossible not to recognize that this restriction is due to the excessive elevation of American tariffs affecting the principal French products as is shown by examples here given: fresh or dried or preserved mushrooms, 45 percent ad valorem; perfumery, cosmetics, etc., containing alcohol, 40 cents per litre plus 75 percent ad valorem; not containing alcohol, 75 percent ad valorem; porcelain, 55 to 70 percent ad valorem; cutlery, dutiable by the piece increased on an average by 45 percent; cotton plush, 50 percent ad valorem; upholstery fabrics, 45 percent ad valorem; yarns, weaves and fabrics of wool, dutiable by the pound increased by from 30 to 50 percent; twisted silk threads,

⁹⁸ i. e., the Tariff Act of 1922.

25 percent ad valorem; sewing threads and floss silk, 40 percent ad valorem; silks in piece and knitted fabrics, 55 percent ad valorem; velvet and silk plush, 60 percent ad valorem; tulle and silk lace, 90 percent ad valorem; clothes, articles of clothing of all sorts, 60 percent ad valorem; clothes containing lace or embroidery, 90 percent ad valorem; articles of jewelry or imitation jewelry, 80 percent ad valorem; men's gloves, \$5 per dozen pairs or 10 francs per pair.

Duties of this nature are in most cases higher than those of the French general tariff for the same articles and these duties are quadruple those of the minimum tariff.

It must be noted, moreover, that from 1913 to 1927 exports from the United States to France passed from 890,302,000 gold francs in 1913 to 1,512,968,000 gold francs from the period July 1, 1926 to June 30, 1927, although during that period the purchasing power of France was markedly diminished as a result of the monetary crisis and the increased production of France might have allowed her to dispense with such large imports.

It can, therefore, not be contended that the present regime to which imports from France into the United States are subject has not seriously prejudiced French exports and that the balance of benefits established by the simultaneous decrees of 1910 has not since that time been profoundly altered to our disadvantage.

Moreover, French exports encounter obstacles not only by virtue of restrictions resulting from the new American tariff but also by virtue of the methods of its application not only in America at the moment of customs clearance but also in France itself where, with a view to this clearance, the American customs administration asserts its right to resort to practices which the French law forbids to the French Government itself.⁹⁴

In addition to the tariff and customs formalities there exists a series of regulations of a sanitary or phytopathological nature which are often completely fatal to agricultural exports from France.

To the argument of principle invoked by the American Government to establish that no concession can be made by America and that that country cannot contemplate any treaty of reciprocity, the French Government is obliged to reply that it does not believe that these concessions are impossible under the American law and that it had, moreover, never envisaged such a treaty of reciprocity as would be forbidden by that law.

The tariff act of the United States, notably section 315, gives the President the power after an investigation of the possible differences

⁹⁴ Presumably the reference is to the activities of the American Tariff Commission and of representatives of the Treasury Department in accordance with the mandatory provisions of the Tariff Act of 1922, sec. 510 (42 Stat. 968). See also *Foreign Relations*, 1925, vol. I, pp. 211 ff., "Unsuccessful Efforts To Have American Customs Attachés Accorded Diplomatic Status."

in costs of production between articles wholly or in part the growth or product of the United States and of like or similar articles wholly or in part the growth or product of competing foreign countries, to change the classification and to decrease the rates of duty in such measure as may be necessary to equalize the costs of production.

As regards the regulations concerning the application of tariffs and the regulations of a sanitary and phytopathological nature it likewise does not seem that alleviations cannot be found for the treatment which in many cases appears unjust to French exporters.

The French Government wishes to emphasize that it is not a question of engaging in tariff bargaining negotiations; it is only a question, in exchange for the particularly favorable regime of the French minimum tariff, of obtaining for certain articles of French exportation a less prohibitive tariff incidence than that to which they are subject at the present time by means of a rectification effected conformably to section 315 (a) of the compensatory duties which, upon erroneous data, the American Government has felt that it must establish, and of revising in such measure as may seem equitable the provisions of those regulations dealing with the application of tariffs or with the preservation of national hygiene which at the present moment result in an absolute prohibition in fact for certain French products.

Upon these tariff alleviations, which in all respects conform to the Constitution and laws of the United States, and upon these administrative investigations which are called for by considerations of simple equity, the French Government by virtue of the unchanging doctrine of France and of its laws must make dependent the grant to America of the most favorable regime which France grants to all other countries. These countries have in fact only themselves obtained this regime by giving France similar guarantees and it would constitute a failure to recognize their interests as well as those of French exportation to grant to American products, in spite of the restrictions to which at the present moment French products are subject, a treatment as favorable as that granted the products of other countries which, on the contrary, in order to obtain it have withdrawn the restrictions which they themselves oppose to French exportation.

4. The French Government, moreover, cannot fail to regret that the *aide-mémoire* saw fit to mention article 317 of the American tariff act whose application would be in conformity neither with the common desire for agreement on economic questions nor with the still too recent memory of the struggles which our two countries waged upon the ground of international justice.

The French Government must express its deep surprise to see that as a result of respecting the laws by which it is bound it

finds itself threatened with reprisals whose injustice or excess becomes apparent as soon as one tries to evaluate the actual damage of which the United States alleged that it has to complain. The recent increases of duties only touch in fact 180,000,000 francs worth of American exports which from July 1, 1926, to June 30, 1927, reached 7,561,834,000 francs, that is to say, scarcely 2½ percent of American exportation. Furthermore, the French Government has been willing to propose a notable diminution of the duties to which since September 6 last this negligible proportion of American interests have been subject.

The American Government felt it could not agree to this proposition and replied to it by a note of principle to which the present note in the eyes of the French Government carries a decisive response.

The American Government will doubtless recognize, after having weighed the considerations above set forth, that on the ground of principles and of systems a compromise can doubtless not be found between the opposing points of view which the legislation of each of the two Governments obliges it to maintain.

On the ground of practical measures, however, the reciprocal good will of the two countries can easily show itself by provisional amelioration of the injury which each of them pleads. The French Government has already shown this good will in proposing to alleviate in a certain degree the tariffs recently raised to the detriment of a part, negligible, it is true, of American exportation. It is prepared to contemplate others which would not be of a nature to prejudice further negotiations for a long-term treaty or to render such a treaty futile, if the American Government will not refuse, as it has hitherto, to examine within the limits of its own legislation the just claims of the French exporters.

If this proof of common conciliation should result within a short time in a provisional arrangement, the French Government does not doubt that negotiations immediately to be undertaken may lead to a durable treaty doing justice to the interests of both countries.

611.5131/610c: Telegram

The Secretary of State to the Chargé in France (Whitehouse)

[Paraphrase]

WASHINGTON, October 8, 1927—2 p. m.

314. Please see the Minister for Foreign Affairs at once and say that by the President's direction you are making following statement:

In the American *aide-mémoire* of September 20 reference to possible use of section 317 of tariff act was purposely avoided as it is

understood that French Government felt such a reference might be embarrassing to it. Since the French *aide-mémoire*⁹⁵ refers, however, to mention in the American *aide-mémoire* of article 317, necessity arises in all candor to point out that present controversy results from initiative of French Government's applying to American commerce additional discriminatory rates, nearly all of which are four times as high as minimum rates. These general rates of the French tariff are, as has been repeatedly admitted by officials of the French Government, admittedly bargaining or penalty rates. Should the President declare in force the duties authorized under section 317, as he sincerely hopes it will not become necessary for him to do, these duties would only correspond to the bargaining duties which France has already imposed, and the two countries would be placed on more nearly equal bargaining basis.

President feels definitely that unless during the forthcoming negotiations American products to which the general or discriminatory rates of French tariff decree of August 30, 1927, have been applied, shall be given immediately the minimum rates of duty of French tariff, the imposition, pursuant to section 317, of new and additional duties on a considerable number of French products will be necessary. The President also feels that use of penalty duties cannot ultimately be avoided if the forthcoming negotiations do not, within a reasonable time, result in suitable arrangement ending discriminations against American trade.

You will please state also that it is only most reluctantly that any consideration has been given to possible use of section 317, and that the Government of the United States is confident that with good will on the part of both sides the matter can be handled so that this Government will not be obliged to take the action in question.

You will emphasize to M. Briand that you are only conveying message to him orally and confidentially in order that possible embarrassment to the French Government may be avoided, and in order that his influence may be exerted to prevent development of an unfortunate situation between the United States and France.

KELLOGG

611.5131/610b : Telegram

The Secretary of State to the Chargé in France (Whitehouse)

WASHINGTON, October 8, 1927—3 p. m.

315. Your 380, October 1, 11 a. m.⁹⁶ By direction of the President, you are instructed to present the following *aide memoire*:

"The Government of the United States has carefully examined the *aide memoire* of the French Government of September 30, and is

⁹⁵ *Supra*.

⁹⁶ Not printed; it transmitted the text of the French *aide-mémoire* of September 30 printed on p. 682.

gratified to learn that the French Government has never contemplated a treaty of reciprocity such as would be inconsistent with American law.

The French Government calls attention to Section 315 of the Tariff Act of 1922, which authorizes the change of tariff rates when warranted by findings of fact as to costs of production. The Government officials of the United States have always gladly facilitated in every possible way any investigation authorized under the terms of said Section 315.

Furthermore, since the Government of the United States has every desire to facilitate commercial intercourse between the United States and France, it will gladly give prompt and careful attention to the matter of 'facilities' to French commerce which the French Government considers may be granted under existing American law, if the French Government will indicate specifically what it has in mind.

The Government of the United States can, of course, give no definite assurances at this time as to the nature of the outcome of such re-examination under Section 315 of existing tariff rates or reconsideration of existing regulations; nor does it feel that the negotiation or conclusion of a permanent commercial treaty between the two countries should be made dependent upon the conclusion of such investigations, which from their nature may take some time, nor upon their outcome.

On the other hand, however, the Government of the United States once more calls attention to the material difficulties which French discriminations oppose to American trade. The volume of exports that has been actually entering France in spite of discriminations does not fully measure their injury, since a much larger proportion of French imports of many classes of goods would be derived from the United States were there no discriminatory handicaps favoring competing exporters of third countries.

Notwithstanding the seriousness of the many discriminations against American commerce under the French Tariff Schedules and Customs Law existing prior to the Decree of August 30, 1927, the consideration of which the United States is willing to leave for the actual treaty negotiations, the Government of the United States feels that, pending the negotiations, the American products to which the general or discriminatory rates of the tariff measure of August 30, 1927, have been applied, should at once be given the minimum rates of duty of the French Tariff.

The French Government states that certain sanitary and other regulations of the American Government interpose obstacles to agricultural exports from France. The regulations to which it is understood reference is made are imposed to safeguard American plant and animal life against the introduction of pests which might do great harm. With respect to this matter, it may be observed that France also imposes regulations which it considers necessary for the safeguarding of its important interests, and that these regulations cause interference with American exports. The Government of the United States will be glad to examine in the most friendly spirit whatever complaints under this head the French Government may submit, assuming of course that the French Government will likewise examine the complaints of American exporters which it will submit.

Inasmuch as the *aide memoire* of September 30 gives ground for the belief that there is a suitable common basis for treaty negotiations, the Government of the United States refrains from entering into controversy regarding the numerous points raised in the *aide memoire*, with respect to which the position of the United States is fully reserved.

The United States has sought no controversy; it merely asks that its products be accorded equality of treatment with those of its competitors in the French market, just as they are in Germany and in practically every other country in the world.

Observing the declaration of the French Government that it has envisaged for the United States the granting of general and unconditional most-favored-nation treatment provided that certain conditions and facilities which the French Government considers to be consistent with existing American law are accorded to the commerce of France, the Government of the United States confidently hopes that treaty negotiations, which it is prepared to press as rapidly as possible, will result before long in the conclusion of an agreement regulating the commercial relations of the two countries on a basis in full harmony with their long history of friendly association."

In presenting the foregoing to the Foreign Office, please make clear that the Department hopes for prompt reply.

KELLOGG

611.5131/627 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

PARIS, October 15, 1927—5 p. m.

[Received 6:07 p. m.⁹⁷]

405. Foreign Office handed me this afternoon a note of which the following is a translation:

"The French Government having examined the *aide-mémoire* of the Government of the United States under date of October 11, 1927,⁹⁸ is happy to find therein concrete propositions inspired by a desire to give satisfaction to the interests of the two countries in conformity with their respective legislation.

It appears, however, that on three important points the Government of the United States has perhaps not taken sufficiently into account the legal conditions which limit the initiative of the French Government.

1. Under the law of 1892, as well as that of 1919, it is not possible for the French Government, even as a provisional measure, immediately to grant without correlative advantages the benefit of the French minimum tariff to American products which, prior to the tariff measures of August 30th, did not benefit by these rates. By virtue of the above-mentioned laws, the French Government cannot grant, prior to negotiation, a regime which in itself must be the result of a negotiation and an agreement.

⁹⁷ Telegram in four sections.

⁹⁸ See telegram No. 315, Oct. 8, 3 p. m., to the Chargé in France, *supra*.

2. The French Government must likewise, and because of the same legal obstacles, subordinate the conclusion of a definitive commercial treaty between the two countries to the conclusion and results of the investigations which it desires to see undertaken according to the procedure envisaged in article 315 of the American tariff law and of the modifications which it hopes to see made to certain regulations of the United States, for it is because of and in proportion to the new facilities which these investigations and *modus vivendi* will bring to French commerce that France will be able, as she hopes, to give to the United States commerce on the French market the more extensive facilities which result from the broader application of its minimum tariff.

3. By virtue of these same laws, France is not prevented from giving the United States general and unconditional most-favored-nation treatment, but cannot for the moment foresee whether this maximum favor, which France grants to few nations, will be found motivated and justified to the extent that it should be under the requirements of French law by the situation which the treaty that it envisages with confidence will reserve to French exports.

The Government of the United States has besides been willing to recognize that it is just to reserve for the negotiation of a definitive treaty, of which this will certainly be the principal purpose, of the question of the differential regime to which, before the decree of August 30, a large part of American exports were subjected.

These reserves being made, the French Government, desirous above all to facilitate the negotiation of an equitable status for the two countries, [has] wished to put in operation to this end all the means which its legislation authorizes.

1. For the period of the negotiations it offers to the Government of the United States, in exchange for the guarantees which are defined above [*below*], the return to the situation prior to the decree of August 30.

Thus reductions from the general tariff would be granted to those American products which since September 6 have been subject to that tariff in such a manner as to reestablish the rates which they paid before that date.

In cases where this rate would be inferior or equal to the minimum tariff instituted by the decree of August 30, the United States would enjoy the minimum tariff in the same manner as states enjoying the benefit of the most-favored-nation clause.

In case of doubt [*sic*] where the nomenclature has been modified by the decree of August 30, arrangements would be taken in such a manner as not to deviate from the above-established principle.

Thus the United States would benefit by a treatment comparatively better than that which was applied to it before September 6, since, as it has just been said, it would henceforth enjoy, for certain products hitherto subject to an itemized rate, equality with most-favored third countries and as for the other products for which the *status quo ante* rate would be reestablished the rate to which they would be subject will be found closer to the minimum tariff than it was before

the decree of August 30th, 1927, as a result of the increase in this tariff.

2. The United States however cannot expect to obtain this return to the ameliorated *status quo ante*, as has just been said, without giving us in exchange, by means of a protocol, effective guarantees in view of subsequent negotiations.

This protocol should stipulate:

(a) That it will instruct the Tariff Commission urgently to proceed, in conformity with article 315 of the Fordney Act, with all investigations relative to those products for which French exporters or the French Government may declare that the rates of duty greatly exceed the difference in cost of production.

(b) That the administrative measures would be studied in a manner to relieve the dispositions of a sanitary character which exclude our agricultural products or prevent the importation of our pharmaceutical products.

(c) That the interference of the American customs on French territory will come to an end.

It goes without saying that the so-called "countervailing duties" applied on the 7th of this month to certain French products would be withdrawn as soon as the provisional status above proposed is put into effect and in fact by application of this status.

3. On the above three points the Governments would immediately begin an exchange of views; and if, from these *pourparlers*, new facilities for French exportation to the United States should result, the French Government would assure to the United States in the future treaty a corresponding extension of possibilities for American commerce on the French market, notably by the more extended granting of the most-favored-nation clause.

Thus the two Governments would endeavor, each within the limits of its own legislation, to ameliorate the conditions of the other's commerce under the terms of a lasting treaty in conformity with the friendly traditions between the two countries."

WHITEHOUSE

611.5131/650

Memorandum by the Assistant Secretary of State (Castle) of a Conversation With the French Ambassador (Claudel)

[WASHINGTON,] October 18, 1927.

The French Ambassador came to see me in connection with the last French note on the tariff question. He said that he felt we had more or less misunderstood the note in feeling that it made any demands on this Government. He said that all they asked was that we study the various questions which we had ourselves intimated we should be willing to study in our last note, that there was no suggestion at all of trying to hold up the American Government, but a very sincere attempt on the part of France to meet our wishes in any way that it

could be done under the law. He said that he could not understand why we should take the attitude that the French had made any demand on us since it had not yet itself sufficiently studied the situation to have made any propositions of any kind. He said that if the French Government had asked us, under the authority given in Section 315, to reduce the duty on specific articles he could quite understand that we would feel that we were being held up, that this was, however, not at all the case, that we were merely asked to make a study of what might be done both under this law and under the various regulations.

I pointed out to the Ambassador that under "C" of the French demands they asked us immediately to stop Treasury investigations in France. He said that he felt the meaning of the section would rather be that we should study the question as to whether these Treasury investigations could be stopped. He said he felt his Government had made very real concessions and that it would hardly be fair for us to put an end to these preliminary negotiations on the ground that France had asked us to make concessions which might not be possible under our law, whereas all she had really asked, and that for the sake of public opinion in France, was that we should make a study of what we might be able to do.

I told the Ambassador I should be very glad to pass along this explanation.

[WILLIAM R. CASTLE, Jr.]

811.5131/627 : Telegram

The Secretary of State to the Chargé in France (Whitehouse)

WASHINGTON, October 22, 1927—11 a. m.

330. Your 405, October 15, 5 p. m. By direction of the President, you are instructed to present the following *aide memoire*:⁹⁹

"The Government of the United States is gratified that the French Government in its *aide memoire* of October 15 has indicated its willingness, pending treaty negotiations, to remove the recent discriminations and to accord to the commerce of the United States the minimum rate of duty in respect of American products to which the decree of August 30 applied, except that rates to which American products were subject prior to September 6 will be applied where they are higher than the rates instituted by the decree of August 30. It is understood likewise, that where the decree of August 30 has modified the nomenclature, the French Government will assure the application of the same principles. The Government of the United States, however, sees no necessity for a protocol to give effect to the desires of the two governments pending treaty negotiations.

With reference to the specific points raised in the *aide memoire* of October 15, the Government of the United States is in a position to give the following explanations and assurances within the limits of American law:

⁹⁹ Presented Oct. 24, 1927.

(a) The United States Tariff Commission, under its rules of procedure governing investigations of cost of production for action pursuant to the provisions of Section 315 of the Tariff Act of 1922, is prepared to consider applications 'by any person, partnership, corporation or association'. Special instructions to the Tariff Commission in the sense suggested by the Government of France are therefore unnecessary, since applications for reductions of duty may be made directly, by or on behalf of French producers or exporters who believe that any rate of duty fixed in the Tariff Act of 1922 exceeds the difference between the cost of production of the specified article wholly or in part the growth or product of France, and the cost of production of a like or similar article wholly or in part the growth or product of the United States. It may also be noted that under the law the adjustment of the rate of duty must be based upon the difference between the cost of production in the United States and the cost in the principal competing country, but that the law does not require that the application originate in connection with imports from the principal competing country.

(b) The Government of the United States will gladly examine in the most friendly spirit any complaints submitted by the French Government concerning the dispositions of a sanitary character affecting agricultural and pharmaceutical products, or other import requirements, on the condition that the French Government will agree to examine in the same friendly fashion complaints of American exporters which the American Government will submit.

(c) The Government of the United States assures the French Government that if the French Government objects, no investigations of private books and records of French producers, manufacturers, or merchants will be made by representatives of the American Government in French territory. The American Government desires to point out that such investigations might facilitate the work of the Tariff Commission pursuant to Section 315 by furnishing evidence indicating costs of production in France. If, however, in any particular case the French Government objects, the Tariff Commission will be obliged to rely upon other available evidence to establish costs of production.

So far as concerns the so-called countervailing duties, the Government of the United States, on being advised of the reduction in the French rates of duty applicable to the products in question, will be happy to reduce its duties thereon to the extent possible under the terms of the Tariff Law of 1922.

The Government of the United States can not admit that the conclusion of a general commercial treaty, which would clarify the commercial relations between the two countries and do away with causes of friction, should be delayed pending the completion of the investigations which the two governments are willing to undertake, or that it should be made dependent upon their results.

The Government of the United States sincerely hopes that, in view of the foregoing explanations, the discriminations lately imposed by France will immediately be removed in order that negotiations may promptly be begun looking to the conclusion at the earliest possible

date of a treaty on the basis of general and unconditional most-favored-nation treatment which the French Government states it envisages for the United States as the result of such negotiations."

KELLOGG

611.5131/683

The Chargé in France (Whitehouse) to the Secretary of State

No. 7999

PARIS, November 4, 1927.

[Received November 14.]

SIR: I have the honor to enclose a copy of the French text of the note of November 2, 1927, from the French Government, concerning the situation raised by the new French tariff and the proposed negotiations for a commercial treaty, together with the Embassy's translation thereof as transmitted in my telegram No. 427, November 2, 8 p. m.¹

I have [etc.]

SHELDON WHITEHOUSE

[Enclosure—Translation]

The French Ministry for Foreign Affairs to the American Embassy

PARIS, November 2, 1927.

The French Government has taken note with satisfaction of the *aide-mémoire* which the Embassy of the United States presented to it on October 24, 1927.² It is happy to find therein the assurances by virtue of which it can shortly open negotiations for a permanent treaty and grant to the products of the United States, pending these negotiations, the provisional regime on which the experts of the two countries have just agreed.

In order to avoid any lack of precision and misunderstanding with respect to these assurances, the French Government feels it opportune to recall them, indicating at the same time its interpretation thereof:

1. The Government of the United States agrees that its Tariff Commission may, in conformity with the procedure governing inquiries as to cost of production initiated by the application of Section 315 of the Tariff Act, receive claims presented by any person, corporation or association, or in their name. The American Government is likewise disposed to transmit to its Tariff Commission requests submitted to it by the French Government in the name of its producers and consumers.

2. The Government of the United States declares itself prepared to examine in the most friendly spirit all claims submitted by the French Government concerning regulations of a sanitary nature affecting agricultural and pharmaceutical products, as well as all other import formalities in which are included the conditions and methods of pass-

¹ Telegram not printed.

² See Department's telegram to the Chargé in France, No. 330, Oct. 22, 11 a. m., p. 696.

ing merchandise through the customs. The French Government, moreover, assures the Government of the United States that it will examine with the same good will the claims of American exporters which may be submitted to it by the American Government.

3. The French Government takes note with particular satisfaction of the assurance of the Government of the United States that no investigation will henceforth be made by the representatives of the American Government upon French territory involving the examination of books and private documents belonging to French producers, manufacturers, or businessmen. The French Government believes that in lieu of these investigations the American Tariff Commission will be willing to take into due consideration any communication relating to the cost of production of French products which may be sent to it by the French Government or transmitted under its responsibility.

4. The French Government does not feel it necessary, with respect to the suppression of the countervailing duties recently put into force by the American Treasury Department by way of carrying out the Law of 1922, to ask for other assurances than those contained in the American note of October 24th and which the French Government interprets as promising a return to the situation existing prior to that which was created by the French Decree of August 30th. It would indeed not be equitable that, the United States being restored to a situation more favorable than that which existed prior to September 6th last, French products should not regain all the advantages which they previously enjoyed.

As soon as the Government of the United States shall have been good enough to declare that no divergence exists concerning the questions hereinabove restated, the French Government will immediately put into application by decree the provisional regime resulting from the agreement of the experts. The French Government desires to point out that this provisional regime constitutes a distinct gain for the United States since, as a result, the most-favored-nation treatment will be granted to 471 American products of especial importance which heretofore were subject to intermediary duties and since for all the other American products affected by the Decree of August 30th the former discrimination is reduced to such an extent that in many cases it is no longer appreciable.

When the provisional regime shall have been thus established, the French Government is ready to take up the negotiation of the treaty of commerce without awaiting the results of the investigations and deliberations relative to Points 1 and 2 above set forth, but, as obliged by its legislation, the French Government must again point out clearly that the conclusion of the treaty could not take place before the result of these investigations and deliberations are known to the French Government and allow it to judge from the situation created for French exportation to the United States the terms which it itself can extend to American products imported into France.

611.5131/660a : Telegram

The Secretary of State to the Chargé in France (Whitehouse)

WASHINGTON, November 7, 1927—3 p. m.

345. Please present the following *aide memoire*, by direction of the President:

"The Government of the United States notes with satisfaction that the interpretation which the French Government places on the explanations and assurances contained in the American *aide memoire* of October 24, 1927,³ corresponds in the main to the position of the Government of the United States, and is gratified that the French Government pending negotiations is now prepared to reduce the rates of duty in respect of American products substantially to the *status quo* existing prior to September 6, 1927.

The Government of the United States is pleased to state that it accepts the interpretation which the French Government adopts, in the paragraphs numbered 1, 2 and 3 of its *aide memoire* of November 2,⁴ in summarizing the corresponding points set forth in the American *aide memoire* of October 24.

With reference to the suggestion of the French Government in the latter part of paragraph 3 of the *aide memoire*, the Government of the United States is happy to state that the United States Tariff Commission will be willing to take into due consideration any communication relating to the cost of production of French products which may be transmitted to it with the approval of the French Government.

Paragraph 4 relating to the so-called countervailing duties substantially interprets the assurance given by the Government of the United States. But just as, by reason of the recent revision of tariff rates effected by France, the new rates of duty to be applied to American goods are not precisely the same as those in force prior to September 6 last, so under the terms of existing American law it is not possible to restore the American rates to exactly their previous position. The action, however, which the American Government under existing law is able to take, on being advised of the reduction of the French rates in question, will entail no appreciable additional burden upon French commerce, since it is estimated on the basis of the trade in 1926 that the duties to be paid on imports of French goods will be only about \$7,000 greater annually than the duties that would be paid in case the *status quo ante* of the American tariff could be completely restored. Thus there is no appreciable difference between the regime desired by the French Government and that which the Government of the United States could establish.

As soon as the French Government shall have reduced its tariff rates applicable to American commerce in accordance with the assurances given, the Government of the United States will be happy to take up at once the negotiation of a general treaty of amity and commerce. Naturally it is for the French Government to determine whether and under what conditions it will be willing to conclude a particular treaty. The Government of the United States, however,

³ See telegram No. 330, Oct. 22, 1927, 11 a. m., to the Chargé in France, p. 696.

⁴ *Supra*.

cannot agree that the removal of the remaining discriminations against American trade be indefinitely deferred, or made conditional upon the result of the investigations to be made by the Governments of the United States and France."

At the same time, please present informal memorandum contained in Department's 346.⁵

KELLOGG

611.5131/660b : Telegram

The Secretary of State to the Chargé in France (Whitehouse)

WASHINGTON, November 7, 1927—4 p. m.

346. Department's 345. Text of "Memorandum on the So-Called Countervailing Duties" is as follows:

"The Government of the United States would be glad to restore the rates affected by the so-called countervailing duties to precisely instead of approximately the figures obtaining before October 6, 1927, were there authority to do so under existing law. The American Government, however, is certain that the action which it can take will be satisfactory to the French Government, since it is estimated on the basis of the trade in 1926 that the duties to be paid on imports of French goods will be only about \$7,000 greater annually than the duties that would be paid in case the *status quo ante* of the American tariff could be completely restored.

Paragraphs 369, 371, 1302, 1536, 1541 and 1543 of the United States Tariff Act of 1922 provide that duties shall be assessed at the rates applied by foreign governments to the articles in question of American origin in cases where the foreign rates exceed specified rates, if any, prescribed by the American law. These provisions are automatic and mandatory, and customs officials of the United States are not vested with discretion in the matter.

In the light of the information at hand as to the rates which the French Government is prepared to accord to American commerce, it appears that when such rates have been made effective the rates of the American tariff would be reduced to the level obtaining before October 6 on goods classified under the previously enumerated paragraphs of that tariff and covered under the following items of the French tariff:

(Ex. 614 bis 2) as to straight bars of iron or steel for velocipede rims; velocipede wheel rims without rubber tire; velocipede saddles, tool bags, and bells with mounts.

(462) Paper-board, pulp board, cardboard, etc., including all card weighing over 350 grams per square meter, rough or prepared.

(462 bis) Milled board, (called papier maché) stone board in ornaments for decoration.

(463) Cut or shaped board.

The American rates would be reduced to the level of the new rates of the French tariff which would be applied to American products in the case of the following:

(614 bis 1) Bicycles, tricycles, motorcycles and motor cyclettes, including children's velocipedes.

⁵ *Infra.*

(Ex. 614 bis 2) As to engines and detachable parts, for motor-cycles; velocipede wheel rims with rubber tires; velocipede lamps and detachable parts; articulated chains for velocipedes; other accessories and detachable parts for velocipedes.

(463 bis) Vulcanized fiber and similar products.

(181 and 181 bis) Brick, solid, common and fine, pressed, or smoothed; hollow bricks.

(185) Cement, slow and quick.

Neither the French nor in consequence the American rates would be changed on the following:

(Ex. 614 ter) Automobile head lights and lamps (mineral oil, acetylene, or electric) complete or not, of iron, steel, copper, copper alloy, aluminum or other light metal, partially or entirely nicked or not.

(0381) Calcium acetate.

The subject has no appreciable practical importance, inasmuch as many of the above articles are not imported from France in appreciable quantities, and the total imports from France of all articles affected by these schedules amounted to only a little over \$100,000 in 1926."

KELLOGG

611.5131/692

The Chargé in France (Whitehouse) to the Secretary of State

No. 8038

PARIS, November 18, 1927.

[Received November 28.]

SIR: With reference to my telegram No. 434 of November 16th,⁸ transmitting a translation of the text of the note received that day from the Foreign Office, concerning the new French tariff decree affecting American products, I have the honor to forward a copy of the original note.

I have [etc.]

SHELDON WHITEHOUSE

[Enclosure—Translation*]

The French Ministry for Foreign Affairs to the American Embassy

PARIS, November 15, 1927.

The Ministry of Foreign Affairs thanks the Embassy of the United States for its *aide-mémoire* of November 8th,⁸ noting the agreement between the two Governments with regard to the interpretation to be given to points 1, 2, and 3 of the American *aide-mémoire* of October 24th.⁹ It takes note with satisfaction of this agreement as well as of the assurances respecting the measures which the Government of the

*Not printed.

⁷ Translation as transmitted by the Chargé in France in his telegram No. 434, Nov. 16, 1927 (file No. 611.5131/635).

⁸ See telegram No. 345, Nov. 7, to the Chargé in France, p. 700.

⁹ See telegram No. 330, Oct. 22, 1927, 11 a. m., to the Chargé in France, p. 696.

United States is good enough to agree to take, both as concerns the foregoing points and the question of countervailing duties, as soon as it shall have been notified of the coming into force of the provisional customs regime contemplated by France in favor of American products. The Ministry of Foreign Affairs has the honor to make known to the Embassy that this regime will be put into application on November 21st, 1927, by virtue of a decree which will appear in the *Journal Officiel* of the French Republic.¹⁰

ARRANGEMENT BETWEEN THE UNITED STATES AND FRANCE
GRANTING RELIEF FROM DOUBLE INCOME TAX ON SHIPPING
PROFITS

811.512351 Shipping/3

The French Chargé (Sartiges) to the Secretary of State

[Translation]

WASHINGTON, August 19, 1926.

MR. SECRETARY OF STATE: The Revenue Act of 1921, Section 213,¹¹ provides that the profits of vessels under the flag of countries which will grant a like exemption to American vessels will be free from taxation in the United States.

Following the example just set by the United States the French Parliament on April 29, 1926, inserted in the French law of finance Article 5, which has the following provision:

"Profits made by the navigation concerns established abroad and derived from the operation of foreign vessels are free from taxation on condition that the country whose flag is displayed by those vessels grant a like exemption to French navigation concerns."

However, the same Article 5, the full text of which is here inclosed,¹² provides "the *modus* of the said exemption and the taxes coming under the exemption shall be in the several countries fixed by a diplomatic agreement." My Government, therefore, instructs me to ask Your Excellency whether the United States Government would be inclined to enter with it into an arrangement determining the *modus* of the contemplated exemption and the taxes coming under the exemption.

The time from which the agreement would go into operation might be set at January 1, 1921. I should be thankful to Your Excellency if you would kindly let me know whether you share the views of the French Government and if so in what shape the said agreement might, in your opinion, be made.

Be pleased [etc.]

SARTIGES

¹⁰ France, *Journal Officiel: Lois et décrets*, Nov. 16, 1927, p. 11718.

¹¹ 42 Stat. 227, 237.

¹² Not printed.

811.512351 Shipping/8

The Secretary of State to the French Ambassador (Claudel)

WASHINGTON, April 26, 1927.

EXCELLENCY: With further reference to your Embassy's note of March 11, 1927,¹⁴ relative to a proposed agreement for the reciprocal exemption from taxation of earnings derived from shipping, I have the honor to inform you that I am now in receipt of a communication from the Treasury Department dated April 9, 1927,¹⁴ concerning the matter, from which I quote the following:

"By a note from the French Embassy dated August 19, 1926, and its enclosure, this Government was informed that the French Parliament on April 29, 1926, inserted in the French Law of Finance, Article 5, which is translated as follows:

'Profits made by the navigation concerns established abroad and derived from the operation of foreign ships are exempt from taxation on condition that the country whose flag is displayed by those ships grants a like exemption to French navigation concerns.

'The *modus* of this exemption and the taxes coming thereunder shall be fixed by each country through a diplomatic agreement. They will form the subject of a decree countersigned by the Minister of Finance and referred within three months to the Legislature for its ratification.

'The profits made in countries that agreed to reciprocate, exception as provided in the foregoing paragraph for navigation concerns which have their headquarters in France, shall be included in the bases of the tax on the industrial and commercial profits due from those concerns.'

"By a note dated January 19, 1927,¹⁵ the French Embassy transmitted to this Government the form and provisions of a decree which the French Government is ready to issue in connection with the agreement of exemption and inquiry was made whether the decree would satisfy the equivalent exemption requirements of the laws of the United States, as provided by section 213 (b) (8) of the Revenue Acts of 1921, 1924, and 1926.¹⁵ The proposed decree is as follows:

'Citizens of the United States of America that have not their domicile on the territory of the French Republic as also corporations organized in the United States of America that are conducting within the territory of the French Republic shipping business with vessels sailing under the American flag, shall be exempted from any tax on the profits derived exclusively from the shipping.

'That exemption which, as a measure of reciprocity, will take effect on January 1, 1921, has in particular to do with the tax on industrial and commercial profits assessed under Title 1 of the law of July 31, 1917 and the income tax provided by the law of June 29, 1872 and the decree of December 6, 1872 upon personal corporations, the stock of which is not listed, but bearing on real or personal property lying in France.'

"By a note dated March 11, 1927, copy of which was enclosed in your letter referred to, dated March 26, 1927,¹⁴ the French Government certified to this Government that since January 1, 1921, there has not been collected in France a tax upon the revenue of American citizens not domiciled in France, or of corporations organized under the laws of the United States, derived from the operation of ships.

"I have the honor to advise you, therefore, that if the proposed decree is adopted in the form in which it is submitted, it will meet the

¹⁴ Not printed.¹⁵ Act of 1924, 43 Stat. 253; act of 1926, 44 Stat. 9.

equivalent exemption requirements of section 213 (b) (8) of the Revenue Acts of 1921, 1924, and 1926".

It will be observed that the Treasury Department holds that if the proposed decree, transmitted in your note of January 19, 1927, is adopted in the form in which it is submitted, it will meet the equivalent exemption requirements of section 213 (b) (8) of the Revenue Acts of this Government of 1921, 1924, and 1926.

Accept [etc.]

For the Secretary of State:

JOSEPH C. GREW

811.512351 Shipping/11

The French Chargé (Sartiges) to the Secretary of State

[Translation ¹⁰]

WASHINGTON, June 11, 1927.

MR. SECRETARY OF STATE: Referring to the note your Excellency was pleased to send to Mr. Claudel on April 26 last, I have the honor to inform you that the French Government on May 20 issued a decree exempting from any tax on profits the citizens of the United States and American juridical persons operating navigation concerns in France.

The decree of which your Excellency will find a copy herewith reproduces the wording quoted in my letter of January 19,¹¹ which has been acknowledged by the United States Department of the Treasury as meeting the conditions required by Section 213 (b) (8) of the Revenue Act of 1921, 1924, and 1926 for the granting of an equivalent exemption in the United States.

I may add that it *goes into immediate effect* in France.

Under these conditions I should be glad if your Excellency would kindly give me the assurance that the French citizens and French companies will hereafter be exempt from the tax on profits derived from navigation business.

Be pleased [etc.]

SARTIGES

[Enclosure—Translation ¹²]

Decree Issued by the French Government, May 20, 1927

The President of the French Republic,

On the report of the President of the Council, Minister of Finance,
Considering Article 5 of the finance law of April 29, 1926,

DECREES:

ART. 1.—Citizens of the United States of America not domiciled on the territory of the French Republic, as well as juridical persons

¹⁰ File translation revised.

¹¹ Not printed.

¹² Filed separately under file No. 811.512351 Shipping/10.

organized in the United States of America, who exploit within the limits of the territory of the French Republic, navigation enterprises, with ships navigating under the American flag, are exonerated from any tax on the profits accruing exclusively from navigation.

This exoneration, which, by way of reciprocity, shall take effect from January 1, 1921, concerns, notably, the tax on industrial and commercial profits instituted by heading 1 of the law of July 31, 1917, and the tax on income prescribed by the law of June 29, 1872, and the decree of December 6, 1872, as payable by foreign companies, whose shares are not quoted, but who possess movable or immovable property situated in France.

ART. 2.—The present decree will be submitted to the ratification of the Chambers, in conformity with the provisions of Article 5 of the law of April 29, 1926.

ART. 3.—The President of the Council, Minister of Finance, is charged with the execution of the present decree, which will be published in the *Journal Officiel* and inserted in the *Bulletin des Lois*.

Done at Paris, May 20, 1927.

GASTON DOUMERGUE

By the President of the Republic:

RAYMOND POINCARÉ

*The President of the Council,
Minister of Finance*

811.512351 Shipping/13

The Secretary of State to the French Chargé (Sartiges)

WASHINGTON, July 8, 1927.

SIR: With further reference to your Embassy's note of June 11, 1927, relative to the proposed reciprocal exemption from taxation by the Governments of the United States and France of the income of French and American nationals derived from shipping, I have the honor to inform you that I am now in receipt of a communication from the Treasury Department dated July 7, 1927, concerning the matter, from which I quote the following:

"I have the honor to acknowledge receipt of your letters dated June 18, 1927 (SO 811.512351 Shipping/10) and June 23, 1927 (SO 811.512351 Shipping/11),¹⁹ with further reference to previous correspondence relative to the proposed reciprocal exemption from taxation by the Governments of the United States and France of the income of French and American nationals respectively, derived from the operation of ships. Attached to your letter of June 18, 1927, there is a copy of a despatch dated May 24, 1927, from the American Embassy at Paris, enclosing a copy and translation of a decree of the

¹⁹ Neither printed.

French Government dated May 20, 1927,²⁰ exempting the income of American ship owners from taxation. Attached to your letter of June 23, 1927, there is a copy of the decree issued by the French Government on May 20, 1927, and published in the Official Journal of the French Republic of May 23 and 24, 1927.

You request to be informed whether the decree is satisfactory, in order that you may advise the Chargé d'Affaires of the French Embassy that French citizens, not residents in the United States and French corporations will be exempt from income taxes on profits derived from shipping.

The decree adopted May 20, 1927, follows the wording of the decree submitted to this Department with your letter of March 26, 1927.²¹ You were advised on April 9, 1927,²² that the decree if adopted in the form submitted would meet the equivalent exemption requirements of section 213 (b) (8) of the Revenue Acts of 1921, 1924, and 1926. The Chargé d'Affaires states in his note that the decree goes into immediate effect in France.

I have the honor to advise you that in view of the fact that the French Government has adopted the decree in the form submitted and it is now in effect, it is held that France satisfies the equivalent exemption provision of section 213 (b) (8) of the Revenue Acts of 1921, 1924 and 1926."

It will be observed that the Treasury Department holds that in view of the fact that the French Government has adopted a decree of exemption which is now in effect, the French Government has satisfied the equivalent exemption provision of Section 213 (b) (8) of the Revenue Acts of 1921, 1924, and 1926.

Accept [etc.]

For the Secretary of State:

W. R. CASTLE, Jr.

REPRESENTATIONS TO THE FRENCH GOVERNMENT REGARDING
CLAIMS OF AMERICAN CITIZENS FOR PROPERTY SEQUESTERED
DURING THE WORLD WAR

151.11 M 571/3

The Secretary of State to the Chargé in France (Whitehouse)

No. 2546

WASHINGTON, December 17, 1927.

SIR: The Department has received your despatch No. 7608, of June 21, 1927, and the enclosed copy of a note from the Foreign Office²³ regarding the claim made on behalf of Miss G. B. Myer^{23a} for the release of her sequestered property.

It is the opinion of this Government that the conclusion reached by the French authorities is not supported by the established facts, that

²⁰ See *ante*, p. 705.

²¹ Not printed.

²² See note to the French Ambassador, Apr. 26, 1927, p. 704.

²³ Neither printed.

^{23a} Miss Eda G. B. Meyer.

the effort to question the American citizenship of the claimant is without merit and that the rejection of the claim is directly in conflict with the assurance of the reciprocal treatment to be accorded American claimants given to this Government in 1921 by the French Ambassador at this capital, in reliance upon which the Alien Property Custodian of this Government released from sequestration the property of a large number of former German subjects who had only recently acquired French citizenship.

The Foreign Office apparently holds in substance that the original German nationality of the father of the claimant so completely permeates and dominates all subsequent acts as to preclude all possibility of the effectuating of a change of nationality, and even nullifies the Constitutional provisions of this Country conferring American citizenship upon children born in the United States.

It is declared that no proof has been submitted of the American naturalization of the claimant's father, or that he had lost his German nationality and that the claimant is herself German *jure sanguinis* and moreover, that "there is nothing to justify that she has lost her nationality of her own act".

Your Embassy has already transmitted to the Foreign Office the birth certificate of Miss Myer, evidencing the fact of her birth in the United States, and it should possibly be noted that this Government is concerned with the question of the citizenship of the claimant alone. It has heretofore been brought to the attention of the Foreign Office that under the provision of the applicable laws of this Country, the fact of birth in the United States effectuates American citizenship, regardless of the nationality of the parents, and that it can be lost only in the event such individual acquires an alien citizenship by naturalization, or takes an oath of allegiance to a foreign Government. It has been adequately established that this Government has recognized the American citizenship of the claimant, and that as far back as 1901, an American passport was issued to her and that she has subsequently received similar recognition by the issuance of passports. It also appears from the statement of the claimant that in 1917 under the requirements of the German laws, she was registered as an American citizen. The certificate of the Prefect of Police of Dresden, dated December 3, 1926, evidencing the non-acquisition of German citizenship by the claimant, was submitted as additional assurance to the French officials of the fact that there had been no change of citizenship during the period of her residence in Germany. It follows, therefore, that the principle of *jure sanguinis* is entirely foreign to the question of the American citizenship of the claimant and that she has not changed her American citizenship acquired by birth in the United States.

In the light of these facts there does not appear to be any warrant for the assumption of the existence of German nationality in the claimant, and it seems obvious that the contention that "there is nothing to justify that she" —the claimant— "has lost her (German) nationality of her own account", is equally without merit or pertinent significance. Nor is it clear that the reference to the applicability of the German Law of July 22, 1913, the Delbrook Law,²⁴ serves any purpose.

The German Law of July 22, 1913, provides in substance that a German national could, under the authority secured from the German Government, retain his German citizenship whilst applying for and acquiring an alien citizenship. This law was enacted some forty-two years after the acquisition of American citizenship by birth of the claimant in the United States. It was applicable only to those possessing German nationality who desired to acquire alien nationality in addition to the retention of their German nationality. In no possible manner and by no process of reasoning can it have reference to, or affect the political status of a native born American citizen.

Under the provisions of the new French law of nationality, passed by the French Parliament on July 13, 1927,²⁵ France applies the same principle of law to one born in France as is employed by the Government of the United States in determining that Miss Myer is an American citizen and is not now and never has been a German subject or citizen. Under Articles III and IV, it is provided that an individual born in France, even of foreign parents, acquires French citizenship either by declaration made prior to the age of twenty-one years or by operation of the statute upon failure of such a one to decline French citizenship within one year after his or her majority.

Under Article VI foreigners may acquire French nationality by naturalization, and by Article I it is provided that every legitimate child of a Frenchman is declared to be a French citizen.

In addition to the foregoing, the action of the Foreign Office makes it opportune to refer at some length to the action heretofore taken with reference to many other similar claims of American citizens, regarded by this Government as directly in violation of the authoritative assurance that the French Government would reciprocate, in connection with claims of American citizens for the release of sequestered property, the action of this Government in releasing the sequestered property of those former German citizens who had acquired French citizenship by reason of the provisions of the Treaty of Versailles.

²⁴ The so-called Delbrück Law, published July 31, 1913, in *Reichs-gesetzblatt*, 1913, No. 46, p. 583.

²⁵ In force Aug. 10, 1927; published in France, *Journal Officiel, Lois et décrets*, Aug. 14, 1927, p. 8697.

It will be recalled that under the Sequestration Statutes of France the property of many individuals was seized although they were at the time of the enactment of the Statutes and of the seizure of the property, native born, or naturalized American citizens of German origin; that many, though nationals of Germany or Austria-Hungary, had previously made application for naturalization and acquired full American citizenship subsequent to the outbreak of the war, in compliance with the laws of naturalization of this Country, and the provisions of the naturalization treaties of 1868 between this Government and the North German Confederation,²⁶ the other German States not members of the union,²⁷ and the Treaty of 1870 with Austria-Hungary.²⁸

Article I of the German Treaties is as follows:

"Citizens of the North German Confederation who become naturalized citizens of the United States of America and shall have resided uninterruptedly within the United States five years, shall be held by the North German Confederation to be American citizens, and shall be treated as such.

"This Article shall apply as well to those already naturalized in either country as those hereafter naturalized."

Article I of the Austro-Hungarian Treaty is as follows:

"Citizens of the Austro-Hungarian Monarchy who have resided in the United States of America uninterruptedly at least five years, and during such residence have become naturalized citizens of the United States, shall be held by the Government of Austria and Hungary to be American citizens, and shall be treated as such.

In like manner this Government sequestered the property of former German citizens who later acquired full French citizenship, under the provisions of the Treaty of Versailles, in the Annex following Sect. V of Part III,²⁹ wherein provision was made for the acquisition of French citizenship of certain classes of residents of Alsace-Lorraine. The French Government was fully aware of the undetermined rights of these French and American claimants, whose property had been sequestered, for in reply to the representations made by the American authorities on behalf of American claimants the French Foreign Office replied that the claims were denied on the ground of the delayed acquisition of American nationality, namely, subsequent to the outbreak of the war. With regard to French claimants the French Ambassador at this capital, in 1919 sought to secure a basis for the allowance of the claims and recogni-

²⁶ Malloy, *Treaties*, 1776-1909, vol. II, p. 1298.

²⁷ *Ibid.*, vol. I, pp. 53 (Baden), 60 (Bavaria), and 949 (Hesse); vol. II, p. 1395 (Württemberg).

²⁸ *Ibid.*, vol. I, p. 45.

²⁹ Malloy, *Treaties*, 1910-1923, vol. III, pp. 3329, 3371.

tion of the French citizenship of the residents of Alsace-Lorraine. He had been previously informed that under the provisions of the Trading with the Enemy Act of this Government,³⁰ as then enacted, Alsace-Lorrainers were not entitled to secure the release of their property sequestrated by this Government subsequent to its entry into the war.

In October, 1919, the French Ambassador wrote:

"October 16, 1919.

"Mr. Secretary of State:

"My Government wishes me to urge upon the competent American authorities the case of the Alsace-Lorrainers whose property was taken over by the Alien Property Custodian.

"However, it appears from unofficial information given to me that the Honorable the Attorney General decided that under the Trading with the Enemy Act Alsace-Lorrainers could not at present be recognized as non-enemy.

"[4]Nevertheless, I cannot refrain from bringing to Your Excellency's notice the situation in which this places some of my compatriots who, thanks to a liberal decision of the Department of Justice, have escaped being registered as alien enemies provided they could establish their origin, at the time of the registration, and were classed as 'French Alsace-Lorrainers'. One could hardly understand why Alsace-Lorrainers should be treated as enemies in so far as mere worldly interests are concerned when the generous entry of the United States in the war had for one of its definite objects as put in one of President Wilson's 14 points, the liberation, now achieved, of the Alsace-Lorrainers. An amendment to Article [*Section*] 9 of the above mentioned Act³¹ has already simplified the formalities required for the return of their property to French residents of a territory formerly occupied by the enemy. My Government would greatly desire to have the same advantages extended to Alsace-Lorrainers upon presentation of a certificate of French authorities showing that they really are Alsace-Lorrainers and loyal French citizens.

"[4]Your Excellency would greatly oblige me by giving early and benevolent attention to this matter to which we attach very great importance.

"[4]Be pleased to accept etc.

"[4]Jusserand."

In reply the Department informed the Ambassador that the residents of Alsace-Lorraine were at that time resident within a territory which was still a part of German territory and were, therefore, not eligible under the statutes to secure a release of their property, and that, in the absence of further legislation by Congress, no basis for the allowance of their claim could be negotiated. On January 13, 1920, the French Ambassador again addressed the Department,³² relative to the claim of Alsace-Lorrainers and observed that the Treaty

³⁰ Act of Oct. 6, 1917; 40 Stat. 411.

³¹ Amendment of July 11, 1919; 41 Stat. 35.

³² Not printed.

of Versailles as between France and Germany had come into force on January 10, 1920, that the territory of Alsace-Lorraine was thus French, and that the residents were, therefore, qualified as claimants under the statutes of this Government. The merit of the Ambassador's contention was recognized, but it was obvious, and correctly held, that our Sequestration Statutes did not then authorize a release of the property of the residents of Alsace-Lorraine seized by the Alien Property Custodian.

On June 5, 1920, an amendment to the Trading with the Enemy Act³³ was enacted providing the basis upon which the claims, of those French citizens, referred to by the French Ambassador, could be allowed by the officials of this Government.

By the amendment of June 5, 1920, a release from sequestration was made available to those claimants who had been citizens and residents of Germany, or Austria-Hungary, as it existed on August 4, 1914, and who, by the terms of the Treaty of Versailles or other treaties of peace concluded in pursuance thereof, had become "*ipso facto* or through the exercise of option", a citizen of any nation, state or free city other than Germany, Austria, or Hungary. Such release was made possible, as provided by Sub-Section (e) of Section 9 of the Act, only upon the condition that the Nation, State, or Free City of which the claimant had become a citizen, "in like case extends reciprocal rights to citizens of the United States"; etc. There is annexed a copy of the pertinent portion of Section 9 of the Act as amended June 5, 1920.³⁴

The reciprocal treatment contemplated by the Act, as a basis for the allowance of the claims of all French citizens, required the extension by France to American claimants of the same rights of allowance as was accorded by this Government to French claimants. It required the allowance by France of all of those claims of American citizens as were essentially similar, not identical in all respects and circumstances, as those of the French claimants. The French Ambassador was fully informed of these requirements and acknowledged his Government's exact understanding of the basis upon which claims of these newly created French citizens would be considered and allowed by this Government under the authority of the Amendment, June 5, 1920.

Under date of December 14, 1920, the French Ambassador again addressed the Department³⁴ relative to the steps necessary to be taken "with regard to the release to French citizens and particularly Alsace-Lorrainers of their property taken into custody" and observes in part:

"In the second place, I have been put in position to assure Your Excellency that reciprocity is accorded in France as provided by the

³³ 41 Stat. 977.

³⁴ Not printed.

American Act above cited. In accordance with the third section of paragraph B of Article 297 of the Treaty of Versailles³⁵ and similar provisions of the other treaties, the property of enemy nationals who acquire an allied or associated nationality as of right by operation of the treaties, is not liquidated, and is released as soon as the owners can bring proof of their having acquired such a nationality.

"It is, however, proper to remark, in order to prevent any misunderstanding, that the reciprocity declaration herein cited, can have no practical effect as far as American citizens are concerned, as no German can, by operation of the Treaty, acquire American nationality.

"But there remains the question of the property of Frenchmen who have acquired French nationality otherwise than by operation of the treaties and whose property was, on some ground or other, taken in custody in America, and conversely, that of the property of Americans who acquired their nationality otherwise than by operation of the treaties, and whose property is, on some ground or other, held in custody in France.

"I may give Your Excellency the assurance that on that point Americans will receive exactly the same treatment as Frenchmen in a similar situation."

It will be observed that a distinction between the status of claims of those who had acquired nationality "as of right under the treaties and those who had acquired their nationality otherwise than by treaties of peace" was sought to be made by the Ambassador, and as to the latter class of persons he stated that Americans would receive "exactly the same treatment as Frenchmen in a similar situation."

In his note of February 10, 1921,³⁶ the Ambassador stated:

"I had told my Government of a request which had been verbally made to me by Your Excellency's Department, the object of which was to know whether as concerns the return of their property to American citizens happening to be in the same situation in France as Alsace-Lorrainers here, there would be reciprocity, not only in the said property being returned, but in the way this would be effected.

"My Government, to whom I had put the question, has just informed me that such property will be returned in the simplest and promptest manner, since it will be enough that the request be forwarded to us through the diplomatic channels, for my Government to cause the restitution to be effected."

This Department, in order to make certain that there should be no misunderstanding as to the claims of persons covered by the agreement, replied to the Ambassador's note on February 18 [19], 1921,³⁶ calling attention to the fact that its previous inquiries relative to the allowance of the claims of American citizens had not been directed to the claims of those Americans who were similarly situated as the Alsace-Lorrainers, but to the claims of American citizens generally.

³⁵ Malloy, *Treaties*, 1910-1923, vol. III, pp. 3329, 3462.

³⁶ Not printed.

Under date of February 25, 1921 the French Ambassador stated ^{36a} that the only exception to the undertaking to release American property "by an administrative decision" would be with respect to those claimants who at the time of acquiring their American nationality had "in accordance with an extraordinary law voted in their country in 1913, preserved their German nationality while swearing allegiance to the United States".

It will be observed from this correspondence that special effort was made to show that the assurance of reciprocal treatment was not to be confined to limited types of American claimants, and that the claims of naturalized American citizens of German origin were not to be excluded upon the ground that "no German could by operation of the Treaty of Versailles acquire American nationality"; that the effort to satisfy the requirement of the American statute, by limiting the expressed understanding of the reciprocal agreement to the claim of those "American citizens occupying in France the same situation as the Alsace-Lorrainers here", was abandoned, and but one limitation as to the treatment to be accorded to the claims of American citizens was injected into the agreement; that the assurance that reciprocal treatment would be extended to the claims of all American citizens, excepting only those who, in acquiring American citizenship had retained their German nationality under the provisions of the Delbrook Law of 1913, was fully and freely given. In other words, the assurance was given that the claims of American citizens without regard to whether they were citizens by birth or by naturalization without limitation as regards the date of sequestration, would receive the same treatment as was accorded by the United States to those former German citizens of Alsace-Lorraine who acquired French citizenship in 1920, subsequent to the enactment of the American Sequestration Statutes and of the seizure of their property.

The one exception insisted upon has not been objected to by this Government, and does not arise in this instance or any other claim so far as this Department is aware. Those naturalized American citizens of German origin who, under the provisions of the German Act of 1913, retained their nationality by authority of the German Government, were not provided for by the amendment of June 5, 1920. No claim is now urged on behalf of such a citizen. And it may be conceded that in those instances in which naturalization had been initiated subsequent to 1913, and there are indications of the fact that the claimant has retained his German citizenship, he may appropriately be required to submit evidence fully determinative of citizenship status.

In connection with the foregoing, the French Ambassador also made promise of facilitating the consideration and allowance of all claims, and noted that the property would be restored "in the most simple and

^{36a} Note not printed.

expeditious manner possible", and that "it would be sufficient to have the application forwarded" to the French authorities "through diplomatic channels, to have the Government itself officially move the release of the property".

In reliance upon this assurance, the American officials gave immediate attention to the consideration of the claims of French citizens and expedited their allowance. The requirements of evidence were lightened, and the question of citizenship satisfied in many instances by the assurance only of the French authorities that the individual claimant was a French citizen.

This Government has already allowed the claims of more than 240 French claimants, for a release of property of a value in excess of \$2,500,000.00, many of whom were former German citizens and had acquired French nationality subsequent to the beginning of the war and subsequent to the sequestration of their property, and, I am informed, that there are few, if any, pending claims of French citizens growing out of the sequestration of German property, other than those referred to in the Department's note to the French Embassy of August 31, 1926. A copy of this note was enclosed in the Department's instruction No. 2025 of September 4, 1927.³⁷

The French authorities have not reciprocated the action of this Government, but have denied the claims for release in some instances, as in the present, of native born American citizens of German descent, in other instances upon an unmerited question of the validity and effect of naturalization under the Statutes of this Government, and the naturalization treaties between this Government and Germany and Austria-Hungary. The release from sequestration has been denied, in some instances, upon the ground of the absence of proof of the loss of German nationality even in instances in which the individual concerned had never had German nationality, or had acquired his American citizenship by naturalization subsequent to the naturalization conventions of 1868 with Germany, or of 1870 with Austria-Hungary, and many years prior to the enactment of the Delbrook Law of 1913. In other instances, the denial of the claim has been based upon the contended-for disqualification of American naturalization subsequent to the outbreak of the war. In still other instances, the delayed naturalization has not been objected to, but a requirement has been imposed of proof of ownership antedating August, 1914, and with relation to securities, such as stocks and bonds, of proof of identity of the property by serial number.

On the other hand, this Government, since the enactment of the Amendment of June 5, 1920, and the acceptance of the assurance of reciprocal treatment, has never opposed the claims of French citizens,

³⁷ Neither printed.

formerly German, on the score of possible retention of German nationality, nor on the ground of failure of proof of the loss of German nationality. This Government has never denied to those French citizens, who acquired their citizenship subsequent to the outbreak of the war and subsequent to the sequestration of their property, the necessary relief to secure to them a release of their property; nor has this Government declined to recognize the validity and effect of the provisions of the Annex following Section V of Part III of the Treaty of Versailles, a Treaty to which it is not a party. On the contrary, this Government, in enacting the Amendment of June 5, 1920, recognized the hardships imposed upon the individual owner of the property, by the application of our statutes as originally enacted. It recognized the validity as between France and Germany of the Treaty of Versailles and the effect of the change of nationality of the residents of Alsace-Lorraine and provision was made for the recognition of such claimants as French citizens and for the release of their sequestered property.

The unmerited hardship and immateriality of the requirement of proof, antedating the war, and with relation to securities, that these be identified by serial number, is patent from the following. Such proof was not always available to a claimant at the date of the filing of a claim. In most instances, these purchases were made "Au Porteur", upon the order of the claimant, through a German bank and by its agent or correspondent in Paris. It was not the practice to furnish the purchaser with the serial number of securities except upon request. But in each instance, the evidence submitted by the claimant established the fact of purchase, the number and character of these securities, and it was further evidenced that the securities named were among those securities seized by the French authorities and held in these sequestered accounts. The evidence in all cases was direct, not inferential, and was as complete as the evidence required in all commercial transactions between the French banks holding the accounts, and their clients.

In the light of the established commercial practice, and recalling that the question at issue is one of title to securities purchased "au porteur", it is not clear upon what principle of law the contention can be supported that a knowledge of the numbers of the securities, sequestered by a Government, can vest in a claimant a better title to such securities than has been required in other instances in transactions between private individuals.

It is the opinion of this Government that it can not be meritoriously urged, that the mere lack of knowledge of the numbers of the securities, evidences any less title in the claimants than is recognized in commercial transactions. Nor can this Government admit

that there is justification in now imposing upon American claimants, as an essential element of proof of title, that item of proof not required in commercial transactions, seldom resorted to in trade and obviously a non-essential as concerns title and ownership in the abstract. Nor will the contention, heretofore advanced, avail to defeat the claimants' rights, namely, that the securities, purchased "au porteur" by the banks for their clients, had been pledged by the banks in order to obtain advances, for such action would not vitiate all right and title of the claimant owner, especially in these instances where sequestration has been effected by the French Government, and there is opposed to the claim of title of the claimant the contention only of the right of the French Government to confiscate.

If, however, the French Government is determined to persist in its contention that the securities claimed cannot be regarded as the property of the claimants, but must be regarded as the property of the enemy banks for whose account they were held in France, it would have to be conceded that such claimants were at least entitled to be reimbursed from the sequestered property for an established debt, in accordance with the principle supporting the practice established by the two Governments in connection with the claims of Société Glanz and Company, The American Trading Company, Kunhard and Company, Mrs. Laura Eisenmann-Arendt, Franckel and Company, the United States Cotton Corporation, The Enterprise Manufacturing Company, and The Coe Manufacturing Company, as well as certain similar claims of French citizens filed with the Alien Property Custodian of this Government, and which was the subject of correspondence between this Department and the French Embassy at this capital, consisting of the Department's note of August 31, 1926, referred to above, and the enclosed copy of the reply of the French Embassy dated March 7, 1927, and the Department's acknowledgment of March 31, 1927.⁸⁸

It is desired that you should bring the substance of the foregoing to the attention of the French Foreign Office and express the confident hope of this Government that it is only necessary, with relation to the instant claim of Miss Myer and all pending claims of American citizens for release of sequestered property, to point out the specific undertaking expressed by the French Ambassador and the failure of the French Government to observe its obligations, to insure that action which will be in accord with the spirit of the agreement of reciprocal treatment and extend to American claimants the same treatment and recognition of citizenship and property rights to sequestered property as was accorded by this Government to all French claimants, native-born or naturalized.

I am [etc.]

FRANK B. KELLOGG

⁸⁸ None printed.

AGREEMENT BETWEEN THE UNITED STATES AND FRANCE FOR THE
ACQUISITION OF SITES FOR MONUMENTS WHICH THE AMERICAN
BATTLE MONUMENTS COMMISSION IS TO ERECT IN FRANCE

Treaty Series No. 757

*Agreement Between the United States of America and France, Signed
at Washington, August 29, 1927*³⁹

This agreement made on August 29, 1927, by and between the Government of the United States of America, represented by John J. Pershing, General of the Armies, Chairman of the American Battle Monuments Commission, party of the first part, and the Government of the French Republic, represented by Mr. Anne-Marie Louis de Sartiges, that Government's Chargé d'Affaires ad interim at Washington, party of the second part, for the acquisition by the Government of the United States of lands intended as sites for monuments which the American Battle Monuments Commission is to erect in France, in accordance with and by the authority of the Act of Congress of the United States approved March 4, 1923, entitled "An Act for the Creation of an American Battle Monuments Commission to Erect Suitable Memorials Commemorating the Services of the American Soldiers in Europe, and for Other Purposes", witnesses that

ARTICLE I

The French Government will acquire the real estate of which the American Battle Monuments Commission whose office is at Paris, rue Molitor, 20, will have become proprietor by virtue of the authority for this purpose which it has received from the United States Government, in view of the erection of the American commemorative monuments above mentioned.

This acquisition by the French Government from the said Commission will be accomplished for the sole price of one franc for the totality of the real estate necessary for each monument.

ARTICLE II

When the land necessary for the erection of the American memorials in question has not been acquired by the American Battle Monuments Commission and if the United States Government expresses the wish, the French Government will proceed to acquire the said land if necessary and if such acquisition is possible; it being understood that in the case where certain organizations such as Communes or Departments do not consent to the transfer of their land, all necessary steps will be diligently pursued by the French Government in order to obtain the concession of the lots necessary to the end in view.

³⁹ In English and French; French text not printed.

ARTICLE III

Before the French Government will undertake any procedure of acquisition or of concession of land necessary to the erection of any of the memorials in question, the authorization to erect such monument must have been given by decree in each separate case, in conformity with the procedure laid down by the Decree of November 18, 1922, and upon a request which will have been previously made by the Government of the United States.

ARTICLE IV

The negotiations provided for in Article 2, which are to be undertaken by the French Government with the owners or tenants of the lands above mentioned for the normal transfer of the said land will be pursued by a representative of the French Government (Ministry of War—appropriate Engineer District) accompanied by a representative of the Government of the United States. The normal agreements signed by the owners or tenants and bearing the written approval of the representative of the United States Government will plainly state that the formalities of acquisition and of payments will be undertaken by the French Government.

ARTICLE V

The French Government will grant without cost and in perpetuity to the Government of the United States the use and free disposal of the lands intended for the erection of the said monuments whether they belong at the present moment to the French Government or whether they have been acquired in conformity with the provisions of Articles 1 and 2 above mentioned. The land of which the French Government is able to obtain only a concession for a limited period will be conceded by it for the same period to the Government of the United States, but in this case, the representative appointed by the latter Government must have given his approval before the French Government definitely acquires the concession.

These measures, however, can never entail the prohibition of any undertakings of public works for which the public necessity will have been declared and of which the site might concern directly or not the land transferred. In this case a representative of the Government of the United States will be called upon to cooperate with the French Government in order to determine the best measures to be taken so far as the monuments are concerned.

ARTICLE VI

In the case where the Government of the United States might later decide either not to carry out a project for the erection of a monument

or to remove a monument once erected, such land as has been acquired for this purpose under the present agreement and which would then be released will be sold by the French Government and the net proceeds of such land will be paid by the French Government to that of the United States.

ARTICLE VII

The land acquired in conformity with the provisions of this agreement will be exempted from all rates and taxes in conformity with Articles 105 and 106 of the Law of 3 Frimaire An VII and with the Decree of August 11, 1808.

By application of the provisions of Article 12 of the Finance Law of June 30, 1923, exemption will be granted from all taxes for stamps, registration, or mortgages, etc., for the various documents established and conveyances accomplished by the French Government having in view the acquisition or the concession of land necessary for the erection of the memorials in question.

ARTICLE VIII

The French Government will settle all difficulties which may arise with adjoining owners or tenants; it will institute and pursue any suit or sustain any defense concerning the land acquired which may thereafter appear necessary. The cost resulting therefrom being repaid to it by the Government of the United States.

It is agreed, however, that payment of damages caused by the personnel appointed by the Government of the United States for the maintenance and guarding of the American memorials or by the materiel belonging to it will be undertaken by the representative appointed by that Government.

ARTICLE IX

The Government of the United States will repay to the French Government the amounts which the latter will have paid, other than those provided for in paragraph 2 of Article 1, both for actual acquisitions or concessions (indemnities to owners or tenants of the land occupied) and for all other expenses occasioned by the said acquisitions or concessions.

ARTICLE X

In no case will the debts of the Government of the United States towards the French Government on account of the purchase of land necessary for the American memorials be susceptible of cancellation against any debt whatever of the French Government towards the Government of the United States.

ARTICLE XI

Repayments to the French Government will be effected as soon as possible by checks, and will provide for a receipt in the following form:

"The French Government acknowledges to have received from the Government of the United States the sum of for the purchase of the lands described hereafter, necessary for the erection of the American commemorative monument at purchase accomplished in accordance with the agreement dated of which a copy is attached hereto.

"Description of the property:

.

ARTICLE XII

Payments for acquisitions made under the provisions of Article 1 above mentioned will be made by checks.

They will provide for receipts in the following form:

"The Government of the United States acknowledges that the American Battle Monuments Commission has received from the French Government the sum of one franc for the purchase of land described hereafter, necessary for the erection of the American commemorative monument at this acquisition accomplished in accordance with the agreement dated of which a copy is attached hereto.

"Description of the property:

.

In witness whereof, the date, month and year, above mentioned, this agreement has been signed in four copies, each copy having the same value and effect as an original, by the Government of the United States represented by John J. Pershing, General of the Armies, Chairman of the American Battle Monuments Commission, and by the French Government represented by Mr. Anne-Marie Louis de Sartiges, that Government's Chargé d'Affaires ad interim at Washington.

JOHN J. PERSHING
SARTIGES

GERMANY

AGREEMENT BY THE ALLIED AND ASSOCIATED POWERS REGULATING AMOUNTS TO BE ALLOCATED FOR CERTAIN PURPOSES FROM THE DAWES ANNUITIES, SIGNED JANUARY 13, 1927

462.00 R 294/567 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, January 3, 1927—9 p. m.

[Received January 4—10 a. m.]

3. H-205 [from Hill¹]. My H-113, June 5th and Department's H-59, June 14, 1926.²

1. Meeting fixed for January 13th to consider following proposal on which French, British, and Belgians are in agreement.

(a) Fixing from April 1st, 1926 to January 10, 1930, or until modification of military zones of occupation, the prior charge on annuities for total maximum costs of armies of occupation including all contributions under Rhineland agreement on annual basis of 141 million gold marks of which 100 million for French, 25 for British, and 16 for Belgian troops.

(b) Fixing for the same period maximum annual charge for Inter-Allied Rhineland High Commission including all deliveries under Rhineland agreement in not to exceed 3,335,000 gold marks allocated French High Commissariat, 1,535,000; British and Belgian 900,000 each. Above to be drawn upon only as required and any savings at the end of year to be paid into common reparation fund for distribution under Finance Ministers' Agreement of January 14, 1925³ to powers having a right to participate in annuities available for distribution as reparations. This of course includes United States. The governments will also place at the disposal of High Commission upon its request through a charge on the annuity a sum not exceeding 550,000 gold marks saved during first year to meet German claims if and when recognized (see my letter August 25 and Department's H-74 September 25, 1926⁴).

(c) Provisions regarding Inter-Allied military commission of control under article 3 of agreement of September 21, 1925⁵ (see annex

¹ Ralph Waldo Snowden Hill, American unofficial representative on the Reparation Commission.

² *Foreign Relations*, 1926, vol. II, pp. 160 and 161.

³ *Ibid.*, 1925, vol. II, p. 145.

⁴ Neither printed.

⁵ *Foreign Relations*, 1925, vol. II, p. 163.

2691 A) extended for duration of third annuity save that maximum fixed in first paragraph of that article reduced to 350,000 gold marks per month.

2. In view of previous instructions will raise no objections at the meeting unless instructed to do so. Hill.

HERRICK

462.00 R 294/569 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, January 13, 1927—9 p. m.

[Received January 14—8:14 a. m.]

15. H-210 [from Hill].

1. Meeting indicated in my H-205⁶ held today for fixation of army and other costs. Official text in English of proposed agreement only received this morning and while of course there is a slight difference in the wording, in substance it agrees with the text (which was translation made in this office from the French text) transmitted to the Department with my letter of January 4.⁷ Representatives indicated approval of proposed agreement changing however the phrase "Allied Governments" in the first line in the next to last paragraph relating to Rhineland High Commission to read "Allied and Associated Governments concerned."

2. Meeting will be called later to sign agreement. Therefore request authority to sign on behalf of the United States. Department will recall that the similar agreement of September 4[21], 1925, was signed by me. Hill.

HERRICK

462.00 R 294/571 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, January 31, 1927—3 p. m.

19. For Hill. H-116. Your H-215, January 25, noon.⁸ This Government's interest in proposed agreement is limited to satisfying itself that its rights under Article 3 of the Paris Agreement of January 14, 1925, are duly regarded. Since the agreement would bring about substantial reduction in prior charges and thus increase American participation, Department raises no objection in the premises and you are accordingly authorized to sign.

KELLOGG

⁶ *Supra.*

⁷ Letter not printed; text of agreement printed on p. 724.

⁸ Not printed; see telegram No. 15, *supra*.

462.00 R 294/577

*The Unofficial Representative on the Reparation Commission (Hill)
to the Secretary of State*

PARIS, February 1, 1927.

[Received February 10.]

SIR: In compliance with the instructions contained in Department's telegram No. H-116 of January 31st,⁹ which was not received until the morning of February 1st, I have today signed the Agreement regulating the amounts to be allocated out of the Annuities of the Experts' Plan for the Armies of Occupation, the Rhineland High Commission and the Military Commission of Control.

It will be observed that the representatives of all the countries interested, save Poland and Brazil, have signed the Agreement.¹⁰ The French Delegation has advised me that the failure of the latter two to sign is due to their absence from Paris and that they have been authorized to sign upon their return.

For the files of the Department, I am enclosing copies made in this office of the English text of the Agreement as signed.¹¹ As soon as official copies of the signed Agreement have been circulated they will be transmitted to the Department.

I am [etc.]

RALPH W. S. HILL

462.00 R 29/828-1224

*Agreement by the Allied and Associated Powers Regulating Amounts
to be Allocated for Certain Purposes From the Dawes Annuities,
Signed at Paris, January 13, 1927*¹²

The Governments of Belgium, the United States of America, France, Great Britain, Italy, Japan, Brazil, Greece, Poland, Portugal, Roumania, the Serb-Croat-Slovene State and Czechoslovakia, respectively represented by the under-signed have agreed as follows.

AGREEMENT

regulating the amounts to be allocated out of the Annuities of the Experts' Plan for the Armies of Occupation, the Rhineland High Commission and the Military Commission of Control for the period 1st April 1926 to 10th January 1930.

⁹ *Supra.*

¹⁰ The representative of the Polish Government had not yet signed the agreement when the official text printed *infra* was transmitted to the Department.

¹¹ Not printed; see official text, *infra*.

¹² Transmitted to the Department on Feb. 28, 1927.

ARTICLE 1

Armies of Occupation.

I.—For the period 1st April 1926 to 10th January 1930 or until a modification in the zones of military occupation, the amounts to be admitted as a prior charge on the Annuities of the Experts' Plan in respect of the total costs of the Armies of Occupation inclusive of the costs of supplies and services of all kinds under the Rhineland Agreement shall be calculated on a yearly basis of 141,000,000 gold marks divided as follows:—

French Army	100, 000, 000 gold marks
British Army	25, 000, 000 “ “
Belgian Army	16, 000, 000 “ “

These figures correspond to the following effective strengths:

French Army	60, 000
British Army	7, 900
Belgian Army	8, 900

and constitute maximum amounts.

II.—For the period from the 1st April to the 31st August 1926 and thereafter at six-monthly intervals the allocation to each occupying Power shall be fixed within the limits of its maximum allocation and at the choice of the Power concerned,

a) either in accordance with the proportion between the actual effective strength during the period in question and the basic strength above, or

b) as regards costs other than those of supplies and services under Articles 8–12 of the Rhineland Agreement by application of the provisions of paragraphs I and IV of Article I of the Financial Agreement of the 11th March 1922, and as regards costs of supplies and services under Articles 8–12 of the Rhineland Agreement on the basis of the final debits in respect of such supplies and services.

III.—For the application of formula a) the Power concerned will furnish certified statements of average monthly strengths.

For the application of formula b) the Power concerned will furnish in accordance with the rules now in force for the application of the Agreement of the 11th March 1922, certified statements of effective strengths and of average monthly costs.

IV.—Supplies and services furnished under Articles 8–12 of the Rhineland Agreement before the 1st April 1926 will continue to be brought to account as provided for in the Agreement of the 21st September 1925.

V.—Provisional allocations shall be fixed on the basis of the maximum figures in paragraph I for the period 1st April to 31st August 1926 and for the first six months of the third Annuity year.

Thereafter the provisional allocations shall be fixed by unanimous decision of the Reparation Commission. The Commission will in principle determine the allocations by the application of formula *a*). Nevertheless in the event of an increase in the retail prices in one of the countries interested between the period 1st April–31st August 1926 and the period under consideration, the Commission will apply a coefficient of increase to the figure obtained by the application of formula *a*) which shall take as exact account as possible of the effects of the increase in retail prices.

The necessary adjustments between the provisional allocations and the amounts actually due shall be made as soon as they are known.

ARTICLE 2

Interallied Rhineland High Commission.

The maximum annual charge for the Interallied Rhineland High Commission, inclusive of the costs of supplies and services of all kinds under the Rhineland Agreement, shall not exceed 3,335,000 gold marks (to be taken in foreign currency or in German currency as required) as from the 1st April, 1926, this sum being allocated between the French, British and Belgian High Commissariats as follows:

French High Commissariat	1, 535, 000 g. m.
British High Commissariat	900, 000 “
Belgian High Commissariat	900, 000 “

Not more than $\frac{5}{12}$ ths of the annual amounts above mentioned shall be allowed in respect of the period April to August 1926 inclusive.

This provision is only to be drawn upon as and to the extent required, and at the end of every six months the Interallied Rhineland High Commission will transmit to the Reparation Commission a certified statement of the expenditure actually incurred by each High Commissariat in the execution of its duties under the Rhineland Agreement.

Any savings at the end of each year will be paid into the Common Reparation fund for distribution in accordance with the provisions of the Financial Agreement of the 14th January 1925 to the Powers having the right under that Agreement to participate in the receipts from Germany on account of the Annuities of the Experts' Plan available for distribution as reparation.

In addition to the above amounts the Allied and Associated Governments interested will at the request of the High Commission, place at its disposal out of the Annuity an amount not exceeding the savings made by it during the first year of the Experts' Plan (in round figures 550,000 gold marks) to meet, in so far as they may be justified, any

outstanding claims presented by the German Government in respect of Article 6 of the Rhineland Agreement for the period 1st September 1924–31st August 1925.

The provisions of the present Article will remain in force until the 10th January 1930, or until a modification in the present zones of occupation.

ARTICLE 3

Interallied Military Commission of Control.

The provisions of Article 3 of the Agreement of the 21st September 1925 are extended until the end of the third year of the Experts' Plan. Nevertheless, for this third year the maximum fixed by the first paragraph of the above Article is reduced to 350,000 gold marks a month.

THE PRESENT AGREEMENT, done in English and French in a Single Copy will be deposited in the Archives of the Government of the French Republic which will supply certified copies thereof to each of the Signatory Powers.

In the interpretation of this Agreement, the English and French texts shall be both authentic.

MAUCLÈRE
GUTT
R. W. S. HILL
W. A. GOODCHILD
CORSI
YAMAJI
MONIZ DE ARAGAO
CARAPANOS
FERNANDES
CONDURAKI
DR. PLOJ
STEFAN OSUSKY

PARIS, *January 13th, 1927.*

POLICY OF THE DEPARTMENT OF STATE REGARDING AMERICAN BANKERS' LOANS TO GERMAN STATES AND MUNICIPALITIES¹²

862.51 P 95/40

Messrs. Sullivan & Cromwell to the Secretary of State

NEW YORK, *September 20, 1927.*

[Received September 21.]

SIR: We beg to advise you that our clients, Harris, Forbes & Co. and associates, are considering the purchase and offer to the public of

¹² Continued from *Foreign Relations*, 1926, vol. II, pp. 201–204.

\$30,000,000 principal amount, 6½% Sinking Fund Gold Bonds, due in 1952, of the Free State of Prussia of the German Reich.

The Bankers are advised that the proceeds of the proposed issue of bonds will be expended on the development of harbors and agricultural lands of the Free State of Prussia and that said improvements will be of a productive character calculated to increase the value and earning power of the State property.

The negotiations of the Bankers for the purchase of the bonds have now reached a point where it may be necessary for them shortly to indicate their position in the matter and accordingly we trust that the Department will advise us at its earliest convenience whether any objection is offered to the flotation of the loan in question.

SULLIVAN & CROMWELL

862.51 P 95/42 : Telegram

*The Acting Secretary of State to the Ambassador in Germany
(Schurman)*

[Paraphrase]

WASHINGTON, September 26, 1927—7 p. m.

89. (1) This morning there appeared in the press a report, emanating from an unknown source, that Department objected to proposed Prussian financing. In response to inquiries the Department has informed the press that statement is incorrect; that the Department had stated orally to bankers, when question was first brought before it, that it believed they should consider carefully the special questions presented by German financing, including financing under article 248 of the Treaty of Versailles,¹⁴ but that the Department had sent no formal reply to the inquiry in view of fact that Department understood that certain questions in regard to loan had developed at Berlin.

(2) This morning, in the absence of the Secretary of State, the Chief of the Division of Western European Affairs informed the German Chargé of the foregoing and stated that in view of increased German borrowing it was becoming apparent that such borrowing is not being effectively controlled; that the Department perceives no ground of public policy, at present time, to object to these loans although it has serious doubts of their utility; that Department does not, of course, wish to place obstacles in way of American capital's going into Germany to meet proper requirements of German industries and heartily favors industrial loans for productive purposes, but that it is Department's feeling that many of the German loans, particularly those to German states whereby a question as to article

¹⁴ Malloy, *Treaties*, 1910-1923, vol. III, p. 3329, 3439.

248 may be raised, are of doubtful utility; and that should German Government not check loans strictly, this Government might find itself obliged to consider seriously, both in its interest and in that of the general situation, measures designed to put a check on improvident borrowing. Mr. Castle added that the United States was anxious not to embarrass German Government and that this Government believed that best curb could and should be imposed by German Government itself; but the Chargé should explain to his Government that unless it were made evident that effective measures were being taken in Germany to the end desired, the Department would be compelled to consider even going as far as to place an embargo on state and municipal loans in the interest of citizens of this country.

(3) Give Gilbert¹⁵ paraphrase of this telegram and send copy to Edwin Wilson, Embassy, Paris.¹⁶ Make no written communication, of course, to German Government as matter has been dealt with here; if, however, German officials raise question, you may make statement orally in sense of foregoing paragraph.

CARR

862.51 P 95/40

The Secretary of State to Messrs. Sullivan & Cromwell

WASHINGTON, October 11, 1927.

SIRS: I beg to acknowledge the receipt of your letter of September 20, 1927, stating that your clients, Messrs. Harris, Forbes and Company, are considering the purchase and offer to the public of \$30,000,000 principal amount, 6½% Sinking Fund Gold Bonds, due in 1952, of the Free State of Prussia of the German Reich.

In view of the large number and amount of offerings of German loans in the American market, the Department believes that American bankers should examine with particular care all German financing that is brought to their attention, with a view to ascertaining whether the loan proceeds are to be used for productive and self-supporting objects that will improve, directly or indirectly, the economic condition of Germany and tend to aid that country in meeting its financial obligations at home and abroad. In this connection I feel that I should inform you that the Department is advised that the German Federal authorities themselves are not disposed to view with favor the indiscriminate placing of German loans in the American market, particularly when the borrowers are German municipalities and the purposes are not productive.

Moreover it can not be said at this time that serious complications in connection with interest and amortization payments by German

¹⁵ S. Parker Gilbert, Agent General for Reparation Payments.

¹⁶ Mr. Wilson was charged with the conduct of American interests before the Reparation Commission; see *Foreign Relations*, 1926, vol. 1, pp. 120 ff.

borrowers may not arise from possible future action by the Agent General and the Transfer Committee. In this connection, your attention is called to a public statement by Mr. Gilbert on November 11, 1925,¹⁷ to the effect that the Transfer Committee is not in a position to give assurances concerning the payment of interest or amortization on German loans floated abroad. While the Department of State does not wish to be understood as passing upon the interpretation or application of the provisions of the Dawes Plan, or upon their effect, if any, upon loans such as the one now under consideration by your clients, it believes that in their interest and that of prospective purchasers, careful consideration should be given to this question.

In addition to the considerations pointed out in the preceding paragraphs, however, the Department believes that in view of the fact that Prussia is a constituent State of the Reich, you should give consideration to the provision of Article 248 of the Treaty of Versailles under which "a first charge upon all the assets and revenues of the German Empire and its constituent States" is created in favor of reparation and other treaty payments, subject "to such exceptions as the Reparation Commission may approve".

While the foregoing considerations involve questions of business risk, and while the Department does not in any case pass upon the merits of foreign loans as business propositions, it is unwilling, in view of the uncertainties of the situation, to allow the matter to pass without calling the foregoing considerations to your attention. In reply to your inquiry, however, I beg to confirm your understanding that there appear to be no questions of Government policy involved which would justify the Department in offering objection to the loan in question.

I am [etc.]

For the Secretary of State:

W. R. CASTLE, Jr.

Assistant Secretary

¹⁷ See telegram No. 194 from the Ambassador in Germany, Nov. 13, 1925, 4 p. m., *Foreign Relations*, 1925, vol. II, p. 182.

GREAT BRITAIN

REPRESENTATIONS BY THE BRITISH GOVERNMENT REGARDING LETTER ON WAR DEBTS FROM THE SECRETARY OF THE TREASURY TO THE PRESIDENT OF PRINCETON UNIVERSITY

S00.51 W 89/263a

The Secretary of State to Diplomatic and Consular Officers

Diplomatic Serial No. 580

WASHINGTON, *March 23, 1927.*

SIRS: Referring to Diplomatic Serial No. 557, dated January 8, 1927, entitled "Funding of Debts of Allied Countries", and Diplomatic Serial No. 563, dated January 20, 1927, entitled "Statement of Members of the Faculty of Columbia University Proposing an International Conference on War Debts",¹ the Department transmits herewith for your information:

(1) Statement of certain Princeton professors regarding war debts, March 9, 1927;

(2) Letter of Secretary Mellon to Dr. John Grier Hibben of Princeton University, March 15, 1927.

I am [etc.]

For the Secretary of State:

LELAND HARRISON

[Enclosure 1]

*Statement of Certain Princeton Professors Regarding War Debts,
March 9, 1927*

A statement made public by President John Grier Hibben is signed by 116 members of the Princeton Faculty and reads:

"We, the undersigned, members of the Faculty of Princeton University, heartily endorse the desire, expressed by the faculty of Political Science of Columbia University, for a reconsideration of the settlement of the allied debts."

President Hibben's statement follows:

"The signatures of the 116 members of the Princeton Faculty constitute one more indication, in a lengthening series, that the enlightened opinion of the country calls for a revision of the debt settlement with our former allies. However well intentioned may have been the motives of our Representatives who approved the terms

¹ Neither printed.

of these settlements, and however lenient these terms may be represented to be by those who wish to insist on our generosity, there is a growing recognition that the settlements so far effected do not meet the actual situation. Even granting the capacity of our debtors to fulfill our stipulations, which is now openly questioned, we do not desire to impose tremendous burdens of taxation for the next two generations on friendly countries who are struggling to regain their strength at the very time when we are amassing a national fortune. To urge our Government's obligation to its citizen bondholders and taxpayers is to evade the real issue, which does not concern the relation of the Government to the people, but our national policy toward certain other States. To divorce the financial provisions of the loans from the moral situation in which they were asked for and given is to invent an unreal economic abstraction. Against the contention that this question should not be raised until all our debtors have come to book there is a ready rejoinder that it would be wiser to adopt a policy which would facilitate agreements with the remaining parties and then revise previous agreements. Finally, there is good reason to believe that in economics, as well as in morals, altruism is indistinguishable from true self-interest."

[Enclosure 2]

Press Release Issued by the Treasury Department, March 17, 1927

LETTER OF SECRETARY MELLON TO DR. JOHN GRIER HIBBEN OF PRINCETON
UNIVERSITY

[WASHINGTON,] *March 15, 1927.*

MY DEAR PRESIDENT HIBBEN: Your statement and that signed by 116 members of the Princeton University faculty endorsing the statement issued by the faculty of political science at Columbia, and urging the reconsideration and revision of the debt settlements with our former associates in the war, have come to my attention. I recognize, of course, the propriety of a frank expression of opinion on important public questions on the part of those in responsible positions, but I am somewhat surprised that before giving the public the benefits of their conclusions neither the gentlemen of the faculty of Columbia University nor those of the faculty of Princeton University saw fit to make a thorough and first-hand investigation of data available at the Treasury or sought by personal interview to ascertain the views of the American officials who negotiated the settlements. The training of these gentlemen, their standing as economists, historians and teachers of government, would have led me to believe that they would have conceived it to be their first duty to present a dispassionate analysis of the facts based on original study rather than to submit their conclusions unsupported by facts.

Moreover, it would not have been amiss for you and your associates to have taken into consideration that one of these agreements has not

been ratified and that the inevitable effect of such a pronouncement would be to encourage and strengthen the opposition in foreign countries to such ratification, an encouragement entirely unwarranted by the circumstances in view of the fact that the American people, expressing themselves through their chosen representatives in the House of Representatives, have approved of this agreement and that the debate, when the measure was before the House for consideration, indicated that an overwhelming majority of the Representatives were opposed to more lenient terms. It is highly probable that such expressions of opinion, far from making the adjustment of these outstanding obligations easier, will simply increase the difficulties of obtaining a better understanding and a ratification of the agreement.

In this connection I cannot refrain from pointing out in answer to the plea urging the re-opening of all debt settlements, that it is not so long since that all of our soundest economists claimed and rightly claimed that the one prerequisite to the restoration of economic prosperity in the world was an early settlement of these debts between governments. The adoption of the Dawes Plan, the ratification of the various agreements between governments providing for payment of this vast unfunded obligation, have, in the course of the last few years, contributed mightily to the progress that has been accomplished. Re-opening all of the settlements would, in my judgment, be a step backward and not forward and one calculated to produce discord and confusion rather than to contribute to the economic stability and orderly betterment of world prosperity.

In your statement you say that to divorce the financial provisions of the loans from the moral situation in which they were asked for and given is to invent an unreal economic abstraction. By this I take it you mean to endorse the argument advanced by the Columbia faculty that our war advances to our associates were not at the time they were made regarded as business transactions but rather as joint contributions to a common cause. Admitting, of course, that the Congressional debates indicate clearly that the Congress was quite willing to loan this money, even on the assumption that there was a considerable element of risk in so far as ultimate recovery was concerned, nevertheless the record indicates beyond dispute that these were loans and not contributions and though not in form in actual effect loans from individual American citizens rather than contributions from the Treasury of the United States. The act providing for these loans authorized the United States Government to sell Liberty bonds to its own people and to invest the proceeds of the sale in the bonds of these foreign governments, the latter bonds to bear the same interest as the Liberty bonds sold and to have the same maturities. What we allowed our associates to do, in effect, was to borrow money in our

investment market, but since their credit was not as good as ours, to borrow on the credit of the United States rather than on their own. Looking at the substance rather than the form of the transaction, the situation was no different than if they had actually sold their own bonds in the American market and our government had endorsed them. Had this course been followed would anyone contend that the sums advanced were intended as contributions to a joint enterprise rather than loans expected to be repaid?

As a corollary to this first proposition it is urged that if these advances were not to be considered contributions as an original measure they ought now to be so considered because our associates were not fighting their own battle alone but ours as well, and that for some months we were unable to put many troops into line. I am not going to attempt a discussion of the military contribution made by the United States to the winning of the war other than to remark that when the crucial period was reached in the Spring and Summer of 1918 our troops were there. I recognize that there is merit in the contention that the associated governments might well have joined in pooling their resources in a common cause and that even now an argument can be made in favor of writing off debts incurred after our entry into the war to the extent that they were incurred for contributions to a common cause, but, and this is an all-important reservation, there is merit to such an argument only if the proposed adjustment is to be a mutual one and is to be applied to all on a strictly equal basis. This factor, however, is one that seems to have been completely overlooked by the faculties of Columbia and Princeton Universities and by other advocates of debt cancellation urging the common cause contribution argument.

Early in the war in order to minimize the dislocation of exchanges and for sound economic reasons the general principle was established that goods and services purchased by one ally in the country of another ally should be financed by the latter. That is to say, that if France purchased supplies and services in England the British government would furnish the pounds with which to buy them and, vice versa, when Great Britain bought goods and services in France the French government would undertake to furnish the francs. As to whether in the latter case the francs were furnished on credit or for cash I do not know, but in the former case the pounds were furnished on credit. When we came into the war we readily agreed to apply this sound principle to our transactions with our associates. That is to say, we agreed to furnish them the dollars with which all their purchases in the United States should be consummated and what is more, we agreed to lend them those dollars. This was the origin of these debts. But here is the fact that is not mentioned and

which you gentlemen have apparently overlooked. We purchased supplies and services from France and the British Empire by hundreds of millions. They had to be paid for in francs and in pounds. We did not get those francs and pounds on credit—we paid cash for them, except possibly in a few comparatively minor instances. In other words, we paid cash for the goods and services necessary to enable us to make our joint contribution to the common cause. Our associates got the goods and services purchased in this country necessary to enable them to make that part of their joint contribution on credit. Here is the fundamental reason which explains why we ended the war with every one owing us and our owing no one. We are now urged to cancel these debts because it is alleged that they were incurred in a common cause, but neither abroad nor in this country has it been suggested that if this is to be done we are to be reimbursed the dollars actually expended by us in France and Great Britain so that the goods and services they sold us might constitute their contribution to the common cause.

In this connection, one other fact may well be called to your attention. Among the purposes for which we made dollar advances was that of maintaining the franc and pound at somewhere near their normal values. In other words, we loaned our associates the dollars with which to purchase bills on London and Paris and so permit them to peg the exchanges. When we were obliged to purchase francs and sterling for our own uses in the Paris and London markets, we did so at the artificial prices maintained by the use of the very funds we had loaned. I have no desire to emphasize this point. I mention it, together with the situation above described, as factors which had to be considered by those charged with the responsibility of negotiating the settlements on behalf of the American Government, and which, with other important ones, could have been readily ascertained by those undertaking to advise our people had they availed themselves of the opportunity which would have been gladly afforded them to ascertain all of the facts.

Before leaving the question of the purposes for which the debts were incurred, may I remind you that I have already had occasion to point out that the present value of these debt settlements at 5%, a rate less than most of the debtor nations now have to pay for money, is, except in the case of Great Britain, either less than or approximately the same as the amounts borrowed after the Armistice. France's after-war indebtedness with interest amounts to \$1,655,000,000; the Mellon-Berenger settlement ² has a present value of \$1,680,000,000. Belgium's post-Armistice borrowings with interest were \$258,000,000, and the

² Signed Apr. 29, 1926; for text, see *Combined Annual Reports of the World War Foreign Debt Commission, 1922-1926* (Washington, Government Printing Office, 1927), p. 257.

present value of the settlement³ is \$192,000,000. The post-Armistice indebtedness of Italy with interest is \$800,000,000, and the present value of its debt settlement⁴ is \$426,000,000. The principal of Serbia's post-Armistice indebtedness aggregates \$16,175,000, and the present value of its debt settlement⁵ is \$15,919,000. The loans to Finland, Esthonia, Latvia, Lithuania, Poland, Czechoslovakia, Hungary, Austria, and Rumania were all made after the Armistice.

The Columbia professors criticized capacity to pay as a formula difficult, if not impossible, of just application, a criticism I understand you endorse. But no other formula is suggested. It is obvious that in the settlement of these huge debts, the burden of which must be borne either by foreign taxpayers or by our own, it was essential that the negotiations must be based on some guiding principle if justice was to be done between all parties; that is to say, not only as between creditor and debtor, but as between debtors. Frankly, I know of no fairer formula than that of capacity to pay generously applied. To ask a debtor nation to pay substantially less than it is able to without undue burden on its people is to do an injustice to our own taxpayers; while to ask a foreign debtor to pay more than its capacity, is to be guilty of an act of injustice such as I can assure you cannot be charged against us. Apparently you would have all debtors treated on an equality. Does this mean that the Italian settlement should be raised to a point where it will correspond to the British, which, of course, would impose a burden impossible of performance by Italy, or do you propose that the British be reduced to 50% and the Italian raised to 50%, which would make an easy settlement for Great Britain and a still impossible settlement for Italy? Or do you propose that the British settlement shall be brought down to the Italian 26%, thus imposing no real burden on England at all?

You say that "We do not desire to impose tremendous burdens of taxation for the next two generations on friendly countries". Are you quite sure that this is an accurate statement of the facts? In estimating the debtor's capacity to pay without inflicting such a sacrifice as would cause a lowering of its standard of living, only incidental consideration was given to the reparation payments to be received by the debtor countries from Germany. Now, the fact is that all of our principal debtors are already receiving from Germany more than enough to pay their debts to the United States; and France and Italy, with the exception of this year in the case of the latter, are receiving from the same source more than enough to pay their debts to Great Britain also.

³ Signed Aug. 18, 1925; *ibid.*, p. 171.

⁴ Signed Nov. 14, 1925; *ibid.*, p. 222.

⁵ Signed May 3, 1926; *ibid.*, p. 230.

France, in the year 1926-27, will receive from Germany approximately \$176,000,000. Under the agreements with Great Britain and with the United States, France will pay \$30,000,000 to us and some \$71,000,000 to Great Britain, leaving to France a balance of \$75,000,000. In 1927-1928, that balance will grow to \$108 000,000. In 1928-1929, in spite of the fact that the payment to Great Britain rises to \$85,000,000, the balance available to France will amount that year to \$186,000,000; and, in 1930, after meeting her obligations to the United States and to Great Britain, there will be a balance from reparation payments of \$237,000,000. Italy is paying us this year \$5,000,000 and to Great Britain \$19,000,000. They will receive from Germany \$22,000,000, which is just \$2,000,000 less than is necessary to meet their obligations to Great Britain and the United States. But, in 1929, German reparations will have risen to \$45,000,000, leaving to Italy a balance, after her payments as debtor, of \$21,000,000. And even in 1936, when her payments to us will amount to \$16,000,000, and to Great Britain approximately \$20,000,000, those two amounts will still fall short by \$15,000,000 of the sums received from Germany.

Belgium this year will receive from Germany \$16,000,000 more than she will pay to other countries; in 1927-1928, \$18,000,000 more; in 1929-1930, \$27,000,000 more. Jugo Slavia will receive this year 11 million dollars more than they will have to pay, and next year 13 million dollars more. All of the other powers that owe us money will, in the aggregate, receive this year \$3,000,000 less than they have to pay, but by 1929 will be receiving \$3,000,000 more than they have to pay.

Finally, we come to Great Britain. Under the agreements with France, Great Britain will receive from France approximately \$71,000,000 this year; from Italy approximately \$19,000,000; from Germany approximately \$72,000,000, and will pay us \$160,000,000. Or, in other words, Great Britain will receive this year from her debtors \$2,000,000 more than she pays us. Next year Great Britain will receive from France \$69,000,000; from Italy, \$19,000,000; from Germany, \$87,000,000; or a total of \$175,000,000. Great Britain will pay us \$160,000,000, leaving a balance of \$15,000,000. In 1928-1929, Great Britain will receive from France \$85,000,000; from Italy, \$19,000,000; from Germany \$127,000,000; or a total of \$231,000,000. Great Britain will pay us \$161,000,000, making a credit balance of \$70,000,000. It is true that in the past two years Great Britain has received about \$100,000,000 from Germany, France and Italy less than she has paid to the United States, but it is equally true that from this year on Great Britain every year will receive from her debtors a substantial amount more than she will pay to us, so that her American payments will not constitute a drain upon her own economic resources.

It is true that Great Britain has agreed not to accept more from her debtors than the sums which when added to reparation payments will equal those which she pays the United States. But even taking this into consideration, it is obvious that your statement that the debt agreements which we have made impose a tremendous burden of taxation for the next two generations on friendly countries, is not accurate, since the sums paid us will not come from taxation, but will be more than met by the payments to be exacted from Germany.

It must also be obvious that if the amounts to be paid by all our debtors are to be reduced and a corresponding reduction is to be made in the amount of reparations to be paid by Germany, the net effect of this change will be to transfer the burden of reparation payments from the shoulders of the German taxpayer to those of the American taxpayer.

Finally, the joint faculties of Columbia and Princeton urge the American people to reconsider the debt settlements with allied countries "because of the growing odium with which this country is coming to be regarded by our European associates". I doubt whether European nations dislike us as much as some people tell us they do. But I know this, that if they do, the cancellation of that part of their debts which has not already been cancelled will not of itself change their dislike into affection. Neither in international relations any more than in private life is affection a purchasable commodity, while my observation and reading of history lead me to conclude that a nation is hardly likely to deserve and maintain the respect of other nations by sacrificing its own just claims.

No one can insure the future; but given normal conditions, it is believed a true balance has been held between the duty of the Debt Commission to the American taxpayer and fairness towards those nations to which was extended aid during and after the war. The debts have not been cancelled, but excessive demands have not been made. Certainly, the debt settlement cannot become too heavy a load in the next few years. In the future, with peace and the development of trade internally and externally, it is not too much to expect that this will be equally true of the later years also. The outstanding fact is that these debts have been settled. A fair trial can now be had, not on theory, but in practice, and a reopening of the whole question at the present time would do more to interrupt the steady progress achieved since settlement than might be gained from any ultimate minor adjustments that can be effected.

Very sincerely yours,

A. W. MELLON

SOO.51 W 89 Great Britain/211

The British Ambassador (Howard) to the Secretary of State

No. 301

WASHINGTON, May 2, 1927.

SIR: The attention of His Majesty's Government has been drawn to the letter on Allied War Debts addressed to Professor John Grier Hibben, President of Princeton University, by Mr. Mellon, Secretary of the United States Treasury, which was published on March 17th.⁶ So far as this letter deals with matters of domestic controversy, His Majesty's Government have of course no desire to offer any comment upon it. But the letter also contains certain specific references to the position of Great Britain: and His Majesty's Government feel bound to point out that on points of cardinal importance, these statements do not correspond with the facts as known to His Majesty's Government. His Majesty's Government feel that in justice to themselves and in order that public opinion in both countries should have a fair opportunity of judging the position, it is essential that they should frankly bring such points to the attention of the United States Government.

2. In the first place, Mr. Mellon states that the United States "agreed to furnish the Allies dollars with which all their purchases in the United States should be consummated and what is more, we agreed to lend them these dollars"; but "when the United States purchased supplies and services from France and the British Empire", they "did not get these francs and pounds on credit: they paid cash". The United States "are now urged to cancel these debts because it is alleged that they were incurred in the common cause, but neither abroad nor in the United States has it been suggested that if this is to be done, the United States are to be reimbursed the dollars actually expended by us in France and Great Britain".

This statement implies that the United States Government lent the British Government all the dollars required to purchase supplies in America and that, over and above these loans, they paid dollars to Great Britain for the services and supplies they required from the British Empire and that these dollars were retained by His Majesty's Government for their own purposes. Such of course is not the case. All the dollar payments made by the United States for their sterling requirements in Great Britain—which though considerable were of course smaller in amount than the war loans to the United Kingdom—were taken into account in fixing the total amount of the war loans advanced to Great Britain and were applied directly to the purchase of supplies in America or to the repayment of debt. The arrangements made are clearly and concisely stated in an Article

⁶ *Supra.*

published in "Foreign Affairs" (April 1925) by Mr. Rathbone, who was during the War Assistant Secretary of the United States Treasury.

Mr. Rathbone's explanation was as follows:

"For its own war purposes in Great Britain, France and Italy, the United States did not borrow pounds or francs or lire. Our Treasury was obliged to procure these currencies for the use of our army abroad. We bought pounds, francs and lire from the Governments of Great Britain, France and Italy, and made payment therefor in dollars here. *The dollars thus obtained by Great Britain, France and Italy were applied by them towards the cost of their war purchases here, and thus the amount of the dollar loans required by these countries from our Treasury was diminished in a corresponding sum*".

It will be seen that the United States Government did not lend the *whole* of the money required for British purchases in America, but that the dollars received from the United States Treasury in payment of sterling provided by Great Britain were used to cover a corresponding part of Great Britain's dollar requirements, and only the *net* dollar requirements were covered by loans from the United States Government.

This arrangement was obviously equitable and satisfactory to both parties, and was in fact originally suggested by the United States Government, in a letter dated the 3rd of December 1917, from Mr. Leffingwell, then Assistant Secretary of the United States Treasury, to the British Treasury representative in Washington, which includes the following paragraph:

"I assume that your Government will use the Dollar Fund thus received for meeting its Dollar requirements for purchases here and would therefore reduce correspondingly its requests for Dollar advances from the United States Treasury".

The dollar payments to Great Britain were thus regularly applied to reduce the dollar advances to Great Britain, so long as the latter continued: when they ceased in 1919, the dollar payments by the United States Government were utilised to reduce the debt incurred by Great Britain. The statement made in Mr. Mellon's letter on this point appears to His Majesty's Government to be likely to give a very erroneous impression of the facts.

3. His Majesty's Government now pass to Mr. Mellon's contention that the payments made to the United States Government in respect of the British War Debt impose no burden on the British Taxpayer.

Mr. Mellon states that "all our principal debtors are already receiving from Germany more than enough to pay their debts to the United States". So far as Great Britain is concerned, this statement is incorrect. The receipts of Great Britain during the finan-

cial year 1926-1927 from Germany on account of reparations represent approximately one quarter of the payments made by His Majesty's Government to the United States Government and their prospective reparation receipts during the present financial year 1927-1928 (assuming that they are transferred in full) will fall substantially below one-half of the payments due to be made to the United States. Even if the receipts from Germany on account of Army Costs (which represent a partial reimbursement of the expenditure incurred by His Majesty's Government on the maintenance of their forces) and on account of the Belgian War Debt (which represents a payment on behalf of Belgium) are included, the total receipts of Great Britain from Germany in either of these years will not exceed one-half of her payments to the United States. There can be no dispute as to the facts: the figures are published by the Agent General for Reparation Payments and are fully available to the United States Treasury.

4. When he comes later to deal with the position of Great Britain, Mr. Mellon does not in fact compare British receipts from Germany alone with British payments to the United States Government; he compares the total receipts of Great Britain from reparations and inter-allied debts, together, with the payments due by her to the United States Government. He gives figures purporting to show that Great Britain will receive \$2,000,000 (£412,000) more this year than she pays to the United States: \$15,000,000 (£3,090,000) more next year and \$70,000,000 (£14,403,000) more in 1928-1929. While he admits that "in the past two years Great Britain has received about 100 million dollars (£20,576,000) from Germany, France and Italy less than she has paid to the United States", he adds that "it is equally true that, from this year on, Great Britain will, every year, receive from her debtors a substantial amount more than she will pay to us, so that her American payments will not constitute a drain upon her own economic resources."

5. This statement is also inaccurate, both as regards the past and as regards the future.

From the 1st of April 1919 to the 31st of December 1926, Great Britain has paid the sum of \$828½ millions or £170½ millions in respect of the debt to the United States Government, whereas the sums received by Great Britain on account of Reparation, Belgian War Debt and Allied War Debts up to the same date amount to £41 millions (\$200 millions) leaving a deficit of £129½ millions (\$628½ millions).

There seems no special reason to select the past two years only, as is done in Mr. Mellon's letter, but the position as regards this period is that during the first two years of the operation of the Dawes Plan (1924-1925 and 1925-1926), the receipts of this country from Reparation (including Belgian war debt) and Allied War Debts together fell

short of British payments to the United States Government by approximately £50,000,000 (\$243,000,000).

6. As regards the financial year 1926-1927, the share of the United Kingdom in the Third Dawes Plan annuity in respect of Reparation and Belgian War Debt amounts to £12 millions and the receipts from Inter-Allied War Debts to £8½ millions, or a total of £20½ millions, as against the payment due to the United States Government of £33 millions. During the following year, (1927-1928), the share of the United Kingdom in the Fourth Dawes annuity in respect of the Belgian War Debt and Reparation should amount to £14¼ millions and the receipts from Inter-Allied War Debts to £10½ millions, or a total of £24¾ millions, as against the payment of £33 millions to the United States. The share of the United Kingdom in the Fifth and subsequent Dawes annuities (i. e. after the 1st of September 1928) for Belgian War Debt and Reparation should amount to £22,400,000, and this, together with the payments from Inter-Allied War Debts (assuming the French War Debt Agreement to have been ratified and neglecting past deficits in British receipts as compared with payments) would be sufficient to cover the current payments due to the United States Government. Whether the payments from the Dawes annuities included in the above calculations will, in fact, be received, depends of course upon whether it is found possible to transfer the full amounts provided for by the Dawes plan.

7. But even if the full Dawes payments continue to be received for sixty years from now onwards, the present value of the receipts of Great Britain from reparation and Allied War Debts together would be less than that of the payments she is obligated to make to the United States Government on account of the British War Debt, assuming interest at 5% to be added to payments and receipts in the past and future payments and receipts to be discounted at the same rate.

8. It is quite true that His Majesty's Government have frequently declared that their policy is to recover such a sum, in respect of their War Loans to the Allies as, with the Reparation Receipts of Great Britain, will suffice to cover the annual payments which they have to make to the United States, but this situation has not yet been reached, and up to the present the British taxpayer has had to find the greater part of the payments to the United States from his own resources, even after applying all receipts from Reparations and Inter-Allied debts to this purpose, and using none of these receipts as a set off against the interest which has to be paid on the loans raised in Great Britain out of which advances were made to the Allies. In no circumstances will Great Britain receive from reparations and Inter-Allied war debts, taken together more than she pays to America. The policy of His Majesty's Government on this subject has been repeatedly declared. It is not their desire to retain for their country anything out of receipts

from reparations and Inter-Allied war debts. In the event of their receipts from Inter-Allied war debts and reparations exceeding the payments made by them to the United States Government, they have undertaken to reduce, proportionately, the payments due to be made to Great Britain in respect of Inter-Allied war indebtedness and a provision to this effect appears in the various war debt funding agreements, which His Majesty's Government have signed.

9. It is not clear on what basis the calculations cited by Mr. Mellon have been made, but it appears probable that error has arisen on the following points:—

(a) *Receipts from Germany.*

The figures mentioned by Mr. Mellon appear to relate to *the total receipts of the British Empire from the Dawes Annuities*. But these include receipts in respect of the costs of occupation as well as in respect of Belgian War Debt and Reparation. The receipts in respect of costs of occupation represent a partial reimbursement of expenditure incurred by Great Britain; they are thus not available to enable payments to be made to the United States without imposing a burden on Great Britain and must be left out of account for the purpose of the present calculation. Further, the *British Empire* Reparation receipts have to be distributed between Great Britain and other parts of the Empire, the share of Great Britain having been agreed at 86.85 per cent of the total. The balance is not received by the British Treasury.

(b) *Receipts from France.*

A more important error is contained in the figures given by Mr. Mellon of the receipts of Great Britain from France. These appear to include the sums which were due by the Bank of France to the Bank of England in repayment of an advance made during the War. This loan was a private transaction and is not an inter-governmental debt. The payments are made to the Bank of England and not one penny thereof accrues to the British Treasury or the British Government. They are thus entirely irrelevant to the question of the extent to which the British taxpayer can meet payments to the United States Government out of receipts from reparation and Allied War Debts.

It should be added that, while the British taxpayer receives nothing from this commercial debt of the Bank of France, he has to meet very large market debts incurred by the British Treasury in the United States before the United States Government entered the War. Since 1st April 1919, the British taxpayer has paid \$680 millions or £140 millions, on this head, over and above the payments made to the United States Government.

10. These facts and figures appear to His Majesty's Government sufficiently to contravert the statement put forward by Mr. Mellon

that the payments made to the United States Government in respect of the British War Debt will not constitute a drain on British economic resources. But much more might be said. It must be remembered that in addition to paying their own debts to the United States, the British people are sustaining the full charge for the advances made by His Majesty's Government to the Allied Governments to enable them to finance the purchase of necessary commodities during the war not only in Great Britain but also in neutral countries. The capital sums lent for this purpose amounted to a net total of about £1350 millions (\$6,600 millions) which, with interest accrued during the war period, amounted on 1st July 1919 to over £1450 millions (\$7,000 millions) or nearly double the debt which His Majesty's Government had themselves contracted at that date with the United States Government.

This amount was borrowed by the British Government from its own Nationals and in respect of this Debt the British taxpayer has had to pay interest at over 5% each year since, making a total annual payment of £72½ millions which will continue until the debt is paid off by further and additional contributions from British taxpayers. No relief from this burden can be looked for from receipts from Reparation and Allied War Debts, for in no case will these receipts amount to a greater total than that of British debt payments to the United States Government.

11. Whereas the United States Government is receiving from Germany a share of the Dawes annuities estimated to cover its reparation claims in full, and at the same time obtain from Great Britain repayment, with interest at 3%, of the full amount of war loans it advanced to Great Britain, Great Britain will retain for herself nothing of any payments she receives in respect either of reparations or of inter-allied war debts, but will apply all her receipts towards part payment of her liabilities to the United States. Any balance that remains she will pay out of her own resources, and in any case she will have to support the entire burden of her war losses and of the war loans she herself made to her Allies.

12. His Majesty's Government have set out these considerations in no contentious or controversial spirit. On the contrary, their desire is to maintain and to promote a friendly understanding between the two great English-speaking nations, on whose cooperation great issues for the peace and progress of the world depend. They view with great misgiving the divergence of opinion and the estrangement of sentiment which is growing up in regard to these war obligations. It appears to them to be the task of British and of American Statesmen to do what can be done to alleviate this difference of view by setting out frankly and fairly the facts of the case and the policy adopted on either side. But the controversy can only be intensified if public opin-

ion in America is guided by statements of facts in regard to their European debtors which to those debtors appear inaccurate and misleading.

It is for this reason that His Majesty's Government regret that there should have been issued, under the authority of the Secretary of the United States Treasury a series of statements in regard to Great Britain which for the reasons set out above appear to them not to represent accurately or completely the facts. They trust that the United States Government will take steps to remove the unfortunate impression that has been created by the issue of this statement. The position and policy of the British Government in regard to these international payments is well-known and the records are easily available; but if at any time further information is desired by the United States Treasury, His Majesty's Government will be happy to furnish it.

I have [etc.]

(For the Ambassador)

H. G. CHILTON

800.51 W 89 Great Britain/211

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, May 4, 1927.

EXCELLENCY: I have the honor to acknowledge the receipt of Mr. Chilton's note of May 2, 1927, in which he communicated to the Government of the United States the comments of the British Government on certain statements contained in a letter dated March 15, 1927, from Mr. Mellon, the Secretary of the Treasury of the United States, to Mr. Hibben, the President of Princeton University.

The Government of the United States regards the correspondence between Mr. Mellon and Mr. Hibben as a purely domestic discussion, and does not desire to engage in any formal diplomatic exchanges upon the subject.

Accept [etc.]

KELLOGG

ARRANGEMENT BETWEEN THE UNITED STATES AND GREAT BRITAIN
FOR THE DISPOSAL OF CERTAIN PECUNIARY CLAIMS ARISING OUT
OF THE RECENT WAR, SIGNED MAY 19, 1927⁷

441.11 W 892/00

The British Ambassador (Howard) to the Secretary of State

No. 83

WASHINGTON, February 1, 1927.

MY DEAR MR. SECRETARY: Sir Austen Chamberlain⁸ has informed me that His Majesty's Government are very anxious that the ex-

⁷ For previous correspondence concerning claims against Great Britain, see *Foreign Relations*, 1926, vol. II, pp. 214 ff.

⁸ British Secretary of State for Foreign Affairs.

change of notes between our two Governments respecting the latest claims settlement should take place before February the 8th, on which day our Parliament meets. He asks me to enquire what progress has been made in this matter and whether we can look forward to the exchange of notes before that date?

Will you be so good as to let me know what answer I should return to Sir Austen, who is evidently anxious for an early reply. I can come to the State Department at any time today if you wish to see me about this.

Yours very truly,

ESME HOWARD

441.11 W 892/99

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, February 2, 1927.

MY DEAR MR. AMBASSADOR: I am sorry that I have not been able to reply earlier to your note of yesterday regarding the claims matter. I have received from Mr. Houghton⁹ a telegram conveying very much the same intimation from Sir Austen as is contained in your note, and I have replied¹⁰ asking Mr. Houghton to tell Sir Austen that the pressure of other events during the past six weeks has made it totally impossible for me to give the consideration to the claims matter which is necessary before I take the matter up in detail with the President. I appreciate the desire of the British Government to have the matter adjusted before Parliament convenes, but I can give no assurance that the matter can be arranged at this end before February 8th. I shall give all the time I can to the question, and will let you know the President's decision just as soon as I can.

I am [etc.]

FRANK B. KELLOGG

441.11 W 892/101

Memorandum by the Secretary of State

[WASHINGTON,] February 19, 1927.

The British Ambassador called on me Wednesday, February sixteenth, and inquired of me if it was going to be possible for me to exchange notes settling the claims question between Great Britain and the United States. I told him I did not think it possible until after the fourth of March; that I had to go through the details of the entire transaction which would take me some time; that I must take it up with the President and possibly with some committees

⁹Alanson B. Houghton, Ambassador in Great Britain.

¹⁰Neither telegram printed.

of the Senate and House; and that the matter involved a great many difficulties, as he knew; and I had been pressed with other matters and not in the best of health; that he must remember it was over a year and a half after I came into office before the British Government was even willing to discuss the matter, and that he must give me time to carefully consider the matter and take it up with the President. I told him I hoped to be able to do it some time within the next two months. While he was not entirely satisfied with it he realized the situation.

441.11 W 892/110

Memorandum by the Assistant Secretary of State (Olds)

[WASHINGTON,] April 19, 1927.

I

The problem presented by these so-called war claims has been magnified out of all proportion to its true merit. Upon serious examination it turns out to be not nearly so momentous a matter as at first supposed, and there is every reason for treating the disposition of these claims as a piece of routine business.

We are simply engaged upon an effort to clear away the debris which any war inevitably leaves behind. In this case we are fortunate in dealing with an Ally, rather than an enemy power. The differences between the United States and Great Britain on this subject arose during the period of our neutrality. More than ten years have now elapsed and it is high time to sweep aside the odds and ends which have been left over from that troubled period.

It appears that both Governments have long remained under a complete misapprehension as to the nature and extent of this task. Great Britain thought we had a huge bill to present, while we likewise were under the impression that thousands of real claims were involved. Investigation has shown these fears to be groundless.

What happened was this: At the outbreak of the war Great Britain put in force certain measures which seriously interfered with neutral trade, and, as we contended, constituted a violation of established principles of international law. Naturally our citizens who were affected by these measures complained, and our Government protested vigorously. Between August 4, 1914, and the date of our entry into the war several thousand complaints were made to the Department of State, and a series of notes were sent by us to the British Government. In important respects the methods and practices of the British Government were modified as the result of our protests, and many of the specific complaints were dealt with and satisfied, although England did not yield on the issues of principle which we raised. Generally speaking, there is where the matter has rested for more than a decade.

The desirability of clearing up this situation has been obvious to everybody. England has been obsessed by the idea that the United States might make demands which she could not meet; various public men and others in our own country have been perplexed by the failure on the part of our Government to take up and dispose of what seemed to be the only remaining international controversy growing out of the war. Manifestly an uncertainty of this nature should not be permitted to drag on indefinitely as a potential menace to good relations between two friendly nations. The sensible thing to do is to resolve it if possible.

As in so many such matters, it is useful to distinguish the practical from the theoretical feature. If we follow pure theory we should go back to our neutrality notes and insist upon a show-down in principle. The short answer to this program is that there is no way to get such a show-down. England will not concede the invalidity, or even arbitrate the question of the validity of her war measures. This has been declared over and over again with the utmost emphasis ever since her replies to our original notes were made. It is worse than futile to raise that issue. Nothing but increased bitterness without any beneficial results would ensue. Moreover, it is extremely doubtful, even if an arbitration were feasible, whether any tribunal could settle the principles in the way in which we should like to have them determined. Most thoughtful students of international law are coming to feel that the rights of neutrals under these modern conditions must be defined, if at all, by some form of international legislation, rather than by tribunals bound by precedents laid down in circumstances which have little in common with those of the present day. Anyhow, it is clear that whatever issue of principle there may be in this regard between the United States and Great Britain, it is not going to be resolved, either by mutual concession or by arbitration. This being so, there is nothing to do but go around this issue and leave it behind us where it can do no harm. That is precisely what the proposed adjustment attempts to do. It formally reserves the respective positions of the two Governments in principle, and, by practical adjustment of the specific cases, seeks to remove the occasion for discussing the rights of neutral[s] on any theoretical basis. Happily the concrete cases before us can be so classified and treated.

The alternatives therefore are plain: On the one hand, a logical insistence upon our theoretical rights, which leads nowhere; on the other hand, a practical adjustment of concrete cases, leaving intact our position in principle. If we choose the first alternative, we perpetuate the issue, promote strained relations and get no tangible results. If we take the second alternative, the issue ceases to have anything but an academic interest, we eliminate the little grains of sand from the bearings of the machine, and both countries go on their

way without any cause for worry. Assuming that the primary business of statesmanship is to get rid of troublesome issues, rather than to perpetuate them, the choice ought not to be a difficult one.

II

The proposed agreement is almost suspiciously simple. Disregarding the specific exceptions from its scope and matters of mere detail, there are but three main provisions.

(1) Purely inter-governmental claims, whether for supplies furnished, services rendered, or damages sustained in connection with the prosecution of the war are cancelled both ways. A recent accounting between the two Governments shows a net balance in favor of Great Britain, on the basis of verified and acknowledged items, amounting to \$1,427,029.27. If additional items claimed by Great Britain should eventually be substantiated, the balance in her favor would be increased to approximately \$3,500,000. Some of these items are said to be fairly allowable.

(2) Each Government agrees not to present diplomatically or to request international arbitration of claims on behalf of any of its nationals alleging loss or damage through war measures adopted by the other. Their respective nationals are to be referred to the appropriate judicial or administrative tribunals of the Government against which the claim is alleged to lie. The British Government specifically agrees that fullest access to its prize courts (which under British law have jurisdiction over the subject matter of all so-called "blockade" claims) shall remain open to American claimants, subject, of course, to the right of the British authorities to plead any defenses that may be legally open to them; and each Government undertakes to use its best endeavors to secure for the nationals of the other the same rights and remedies in its courts as may be enjoyed by its own nationals in similar circumstances.

(3) With respect to the legality or illegality under international law of all measures giving rise to claims covered in the agreement, each Government reserves its juridical position and its right to maintain such position as it may deem appropriate in future contingencies involving such questions.

It appears from a careful examination of the specific cases recorded in the Department's files that there are a few American claims, (of which probably not more than eleven involve any substantial sums) which the Government of the United States on further examination might regard as meritorious, but which might not be adequately provided for under the proposed agreement either because the claimants had already exhausted their legal remedies in the British courts, or because no legal remedy was open to them. As to these cases the Government of the United States proposes to say to the British Government that it will regard the net amount saved to it, under the first main provision of the agreement above referred to, as intended for their satisfaction. In other words, our Government announces that

in so far as these claims may be found by it to be meritorious, it will endeavor to take care of them by recommending to Congress such actions as may insure the utilization for the purpose of the net amount accruing to the United States through the cancellation of inter-governmental claims. There is every reason to believe that the amount thus saved will be more than ample to satisfy meritorious cases.

The foregoing agreement from every angle lies plainly within the acknowledged province of the executive department of the Government.

(a) There can be no doubt whatever of the power to adjust and settle inter-governmental claims. In this instance no appropriation is required by Congress, the net balance being in favor of Great Britain.

(b) So far as the individual claimants are concerned, the situation is perfectly clear. The Government is exercising its indisputable right to determine in its own discretion whether it will espouse and present diplomatically the claims of its nationals against a foreign Government. It says it will not espouse and present the claims here in question. The American claimant has no standing to complain. No right which he enjoys is taken away from him. On the contrary his position with respect to the foreign Government against which his claim lies is amply secured and to some extent improved. He can still proceed in his own right under guarantees which are in addition to those which he already had. Let it be understood that the claimant has no indefeasible right to have his Government take up his claim and present it diplomatically. The espousal of a claim means that the individual drops out and the Government takes the claim as its own property on the theory that an injury or denial of justice to one of its nationals is an injury to it. If the Government later succeeds by negotiation, arbitration, or otherwise in securing reparation, the amount received belongs to the Government, and the citizen or claimant can get redress only as an act of grace. Consequently, in the proposed settlement this Government is scrupulously protecting, in fact enlarging, the rights of its citizens to proceed in their own behalf.

(c) Congressional action is not committed to the slightest extent. The Government only undertakes to recommend legislation if necessary to put British nationals on the same footing with our own citizens in certain particulars; and further indicates its intention to recommend appropriations by Congress for the benefit of some of our own nationals (who otherwise could obtain no compensation whatsoever) provided certain conditions named in the agreement are found to exist. It goes without saying that Congress is quite free to reject any recommendation that may be made.

441.11 W 892/113

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, May 19, 1927.

EXCELLENCY: I have the honor to incorporate herein the text of an arrangement for the disposal of certain pecuniary claims arising out of the recent war, in which His Majesty's Government in Great

Britain and the Government of the United States are interested, either as principals or on behalf of their respective nationals. This arrangement which has been agreed upon by representatives of both Governments, has been approved by the Government of the United States. The terms of the arrangement are as follows:

ARTICLE I

With the exceptions stated in Article II hereof His Majesty's Government in Great Britain and the Government of the United States agree:

(1) That neither will make further claim against the other on account of supplies furnished, services rendered or damages sustained by it in connection with the prosecution of the recent war, all such accounts to be regarded as definitively closed and settled.

(2) That neither will present any diplomatic claim or request international arbitration on behalf of any national alleging loss or damage through the war measures adopted by the other, any such national to be referred for remedy to the appropriate judicial or administrative tribunal of the Government against which the claim is alleged to lie, and the decision of such tribunal or of the appellate tribunal, if any, to be regarded as the final settlement of such claim, it being understood that each Government will use its best endeavours to secure to the nationals of the other the same rights and remedies as may be enjoyed by its own nationals in similar circumstances, and that His Majesty's Government in Great Britain agrees that fullest access to British Prize Courts shall remain open to claimants subject to the right of the British authorities to plead any defences that may be legally open to them.

(3) That the right of each Government to maintain in the future such position as it may deem appropriate with respect to the legality or illegality under international law of measures such as those giving rise to claims covered by the immediately preceding paragraph is fully reserved, it being specifically understood that the juridical position of neither Government is prejudiced by the present agreement.

ARTICLE II

Nothing contained in this agreement shall be construed to annul, alter, modify or in any way affect the rights of nationals of either Government or to prevent the presentation of diplomatic claims based thereon, in respect of:

(1) The user of inventions by the other Government in connection with its prosecution of the war;

(2) Damage caused by or salvage services rendered to a vessel belonging to the other Government.

It is expressly understood that the provisions of this agreement do not apply to (1) Claims by the Government of the United States, or of its nationals, against the Government of any of His Majesty's self-governing Dominions or of India, or British nationals resident therein, or to claims against the Government of the United States by the Government of any of His Majesty's self-governing Dominions or of India, or by British nationals resident therein, and (2) Claims

on behalf of either Government or its nationals for the release of property held by Custodians of Enemy Property in Great Britain and Northern Ireland and all British Colonies and Protectorates, and by the Alien Property Custodian or the Treasurer of the United States.

If the foregoing arrangement is acceptable to your Government, a note from you to that effect will be considered by this Government as completing the understanding and the arrangement will thereupon be regarded by the Government of the United States as having come into force.

In order to obviate the possibility of future misunderstanding as to the purpose or interpretation of the arrangement, I desire to state that the Government of the United States regards it not as a financial settlement but as the friendly composition of conflicting points of view which seemed to lend themselves to no other form of adjustment. It is my understanding, in these circumstances, that the present agreement will be construed by both Governments with full regard for the equities of all parties concerned. The Government of the United States realizes that by the terms of the agreement His Majesty's Government waive their right to receive a net cash payment on account of certain claims recognized by the United States as just and proper, and also their right to press certain other claims, liability for which has not been formally admitted by this Government, but which involve considerable amounts. I desire to record the fact that the Government of the United States will regard the net amount saved to it through the above-mentioned waiver by His Majesty's Government of outstanding claims against the Government of the United States as intended for the satisfaction of those claims of American nationals falling within the scope of paragraph (2) of Article I of the agreement, which the Government of the United State regards as meritorious and in which the claimants have exhausted their legal remedies in British courts, in which no legal remedy is open to them, or in respect of which for other reasons the equitable construction of the present agreement calls for a settlement. Consequently, I take pleasure in assuring you that the Government of the United States will recommend such action by Congress as will insure the utilization for the purpose just mentioned of the sums saved to the United States under the provisions of the present agreement, and that it will also safeguard His Majesty's Government against possible double liability by exacting an assignment to the Government of the United States of all of a claimant's rights and interests in the claim in question as a condition precedent to the allowance of any compensation in respect thereof.

Furthermore since it appears that American citizens with claims against His Majesty's Government which do not fall within the scope of the present agreement enjoy certain rights of access to the British

judicial or administrative tribunals not enjoyed in similar cases by British subjects seeking remedy against the Government of the United States, I take pleasure in extending to the cases of British claimants whose claims are not covered by the present agreement, the assurance contained in paragraph (2) of Article I of the agreement in question, that is that the Government of the United States will use its best endeavors to secure to British nationals the same rights and remedies as may be enjoyed by its own nationals in similar circumstances, and in such cases the Department of State will be happy to give active support to a request to the Congress for appropriate remedial legislation.

Accept [etc.]

FRANK B. KELLOGG

441.11 W 892/113

The British Ambassador (Howard) to the Secretary of State

No. 342

WASHINGTON, May 19, 1927.

SIR: I have the honour to incorporate herein the text of an arrangement for the disposal of certain pecuniary claims arising out of the recent war, in which the Government of the United States and His Majesty's Government in Great Britain are interested either as principals or on behalf of their respective nationals. The terms of this arrangement, which has been agreed upon by representatives of both Governments, are as follows:

ARTICLE I

With the exceptions stated in Article II hereof His Majesty's Government in Great Britain and the Government of the United States agree:

(1) That neither will make further claim against the other on account of supplies furnished, services rendered or damages sustained by it in connection with the prosecution of the recent war, all such accounts to be regarded as definitively closed and settled.

(2) That neither will present any diplomatic claim or request international arbitration on behalf of any national alleging loss or damage through the war measures adopted by the other, any such national to be referred for remedy to the appropriate judicial or administrative tribunal of the Government against which the claim is alleged to lie, and the decision of such tribunal or of the appellate tribunal, if any, to be regarded as the final settlement of such claim, it being understood that each Government will use its best endeavours to secure to the nationals of the other the same rights and remedies as may be enjoyed by its own nationals in similar circumstances, and that His Majesty's Government in Great Britain agrees that fullest access to British Prize Courts shall remain open to claimants subject to the right of the British authorities to plead any defences that may be legally open to them.

(3) That the right of each Government to maintain in the future such position as it may deem appropriate with respect to the legality

or illegality under international law of measures such as those giving rise to claims covered by the immediately preceding paragraph is fully reserved, it being specifically understood that the juridical position of neither Government is prejudiced by the present agreement.

ARTICLE II

Nothing contained in this agreement shall be construed to annul, alter, modify or in any way affect the rights of nationals of either Government or to prevent the presentation of diplomatic claims based thereon, in respect of:

(1) The user of inventions by the other Government in connection with its prosecution of the war:

(2) Damage caused by or salvage services rendered to a vessel belonging to the other Government.

It is expressly understood that the provisions of this agreement do not apply to (1) Claims by the Government of the United States, or of its nationals, against the Government of any of His Majesty's self-governing Dominions or of India, or British nationals resident therein, or to claims against the Government of the United States by the Government of any of His Majesty's self-governing Dominions or of India, or by British Nationals resident therein, and (2) Claims on behalf of either Government or its nationals for the release of property held by Custodians of Enemy Property in Great Britain and Northern Ireland and all British Colonies and Protectorates, and by the Alien Property Custodian or the Treasurer of the United States.

I am authorized to inform you that the foregoing arrangement is acceptable to His Majesty's Government in Great Britain and I hereby convey their acceptance thereof in acknowledgment of that contained in your note on behalf of the Government of the United States. The understanding is therefore regarded as having been completed and the arrangement as having come into force.

In order to obviate the possibility of future misunderstanding as to the purpose or interpretation of the arrangement, I am directed to state that His Majesty's Government in Great Britain regard it not as a financial settlement but as the friendly composition of conflicting points of view which seemed to lend themselves to no other form of adjustment. It is my understanding, in these circumstances, that the present agreement will be construed by both Governments with full regard for the equities of all parties concerned. By the terms of the agreement His Majesty's Government in Great Britain waive their right to receive a net cash payment on account of certain claims recognised by the United States as just and proper, and also their right to press certain other claims, liability for which has not been formally admitted by the Government of the United States. It is understood that the Government of the United States will regard the net amount saved to it through the above mentioned waiver by His Majesty's Government of outstanding claims against the Gov-

ernment of the United States as intended for the satisfaction of those claims of American nationals falling within the scope of paragraph (2) of Article I of the agreement which the Government of the United States regards as meritorious and in which the claimants have exhausted their legal remedies in British courts, in which no legal remedy is open to them or in respect of which, for other reasons, the equitable construction of the present agreement calls for a settlement. I take note with satisfaction of your assurance that the Government of the United States will recommend such action by Congress as will ensure the utilization for the purpose just mentioned of the sums saved to the United States under the provisions of the present agreement and that it will also safeguard His Majesty's Government in Great Britain against possible double liability by exacting an assignment to the Government of the United States of all of a claimant's rights and interests in the claim in question as a condition precedent to the allowance of any compensation in respect thereof.

Furthermore, since it appears that British subjects with claims against the Government of the United States which do not fall within the scope of the agreement above quoted do not enjoy rights of access to American judicial or administrative tribunals as complete or effective as are enjoyed in similar cases by American citizens seeking remedy against His Majesty's Government in Great Britain, it is understood that the Government of the United States extends to British claimants whose claims are not covered by the agreement above quoted, the assurance contained in paragraph (2) of Article I of the said agreement, that is to say, that the Government of the United States will use its best endeavours to secure to British nationals the same rights and remedies as may be enjoyed by its own nationals in similar circumstances and that in such cases the Department of State will give active support to a request to the Congress for appropriate remedial legislation.

I have [etc.]

ESME HOWARD

ARRANGEMENT BETWEEN THE UNITED STATES AND GREAT BRITAIN
REGARDING RELEASES OF PROPERTY UNDER AMERICAN AND
BRITISH TRADING WITH THE ENEMY ACTS

763.72113/2155

The American Chargé in Great Britain (Sterling) to the British Secretary of State for Foreign Affairs (Chamberlain) ¹¹

No. 1008

LONDON, January 4, 1927.

SIR: In connection with the recent discussions between the British Administrator of German Property and Mr. Ralph Hill of the De-

¹¹ Copy transmitted to the Department by the Chargé under covering despatch No. 1563, Jan. 4, 1927; received Jan. 22.

partment of State, with a view to reaching an arrangement between the Governments of Great Britain and the United States for the reciprocal release by them of property sequestered in both countries under Trading with the Enemy Acts, I have the honor to enclose a memorandum indicating the position of the American Government with regard to the release of property to British subjects held by the Alien Property Custodian under the American Trading with the Enemy Act, and of its understanding of the position of the British Government with regard to the release to American citizens of property held by the British Administrator of German Property.

I shall appreciate it if you will be good enough to advise me whether the understanding of the competent American authorities, as set forth in the attached memorandum, concerning the position of the British authorities on the subject of reciprocity in connection with the administration of the British Trading with the Enemy Act is correct, and, if so, whether on the basis of his understanding of the position of the American Government the British Administrator is prepared to release to American citizens property held by him in cases falling within the limits outlined in the memorandum.

On behalf of my Government I am directed to state that the competent American authorities are prepared to assure reciprocal treatment (as defined in the memorandum) to British subjects whose property is held by the Alien Property Custodian.

I have [etc.]

F. A. STERLING

[Enclosure]

MEMORANDUM CONCERNING THE RECIPROCAL RELEASE BY THE BRITISH AND AMERICAN GOVERNMENTS OF PROPERTY SEQUESTERED IN BOTH COUNTRIES UNDER TRADING WITH THE ENEMY ACTS

The following is a statement of the position of the American Government in regard to the release to British subjects of property held by the Alien Property Custodian under the Trading with the Enemy Act, and of its understanding of the position of the British authorities in regard to the release to American citizens of property held by the British Administrator of German Property.

1. MARRIED WOMEN CASES

A. Position of the American Government

Section 9 (b) (2) of the Trading with the Enemy Act as amended, authorizes the return to a woman

(a) who, at the time of her marriage, was a subject or citizen of a nation which had remained neutral in the war, or of a nation which was associated with the United States in the prosecution of said war, and

(b) who, prior to April 6, 1917, intermarried with a subject or citizen of Germany or Austria Hungary,
of property acquired

(a) from whatever source prior to January 1, 1917,

(b) from non-enemy sources at any time, whether or not such woman reacquired, prior to or since January 10, 1920, the nationality which she had at the time of her marriage to a German or Austro-Hungarian national.

Claims of British women who married enemies prior to the war and who reacquired British nationality on or before June 1, 1926, will be allowed.

The foregoing is conditional on reciprocal rights being extended to citizens of the United States.

B. Position of the British Government

Property will be returned to a native born American woman who had married a subject of a former enemy state and had reacquired American citizenship, either prior to or since January 10, 1920, but not later than June 1, 1926.

This does not apply to property of enemy origin, the transfer of which was illegal after the outbreak of war under the British Trading with the Enemy Act.

This procedure moreover can only apply in the case of property which has not already been liquidated or credited to an ex-enemy power or been so applied as to put it out of the power of the British Government to release it.

2. DEBT CLAIMS

A. Position of the American Government

The American Trading with the Enemy Act authorizes on the basis of reciprocity the payment from sequestered property of debts owing to and owned by British claimants prior to the passage of the original Act, provided such debt, in the nature of a pledge or lien, arose in reference to the money or other property held by the Alien Property Custodian or Treasurer of the United States.

B. Position of the British Government

In all cases where enemy businesses, whether conducted by corporation, partnership, or individual concerns have been liquidated in Great Britain under war legislation, the claims of American creditors, wherever resident, have been treated on an equal footing with those of British creditors.

3. SHARES OF STOCK IN DEPOT ACCOUNT OF GERMAN BANKS

A. Position of the American Government

No distinction is made between the claims of British or American citizens with respect to claims under this category. The American authorities take the position that it is not sufficient for a claimant to allege that he had a certain number of shares of stock. If he cannot give the numbers of the certificates of such shares, he should furnish other proof sufficient to identify the particular property from that class with which it had become commingled. However, it is not necessarily incumbent upon the claimant to give the actual numbers of the shares so held.

B. Position of the British Government

Upon proof of any American, allied or neutral subject that he is absolutely entitled as between himself and the German bank or other enemy to any particular shares, a release would be made; further, even in cases where the applicant is unable to identify the actual number of his particular shares, and can only establish that a certain number of the shares held in depot had been held on his account, he would also be entitled to release, subject, however, to a pro rata reduction in the event of the depot being short.

4. CORPORATIONS

A. Position of the American Government

The return is permitted of the assets of a corporation in the following cases:

1. Provided the corporation (a) was not incorporated in enemy countries, i. e., Germany, Austria or Hungary.
(b) did not do business within enemy territory during the war.
(c) was not declared an enemy by Presidential Proclamation, regardless of the nationality of the owners of the stock.
2. Provided (a) the corporation was not incorporated in any enemy country, i. e., Germany, Austria or Hungary.
(b) More than 50% of the capital stock of the corporation was owned by non-enemies at the time of the seizure of such assets by the Alien Property Custodian, regardless of the fact that such corporation may have been an enemy by reason of doing business within enemy territory or may have been declared an enemy by Presidential Proclamation.

B. Position of the British Government

Under British law a corporation incorporated and having its seat in Germany is considered a German national irrespective of the nationality of any or all of its stockholders. A corporation incorporated and having its seat outside of enemy territory irrespective of the nationality of its stockholders is considered a non-enemy national.

763.72113/2175

The British Secretary of State for Foreign Affairs (Chamberlain) to the American Ambassador in Great Britain (Houghton) ¹²

No. A 1066/171/45

[LONDON,] 23 February, 1927.

YOUR EXCELLENCY: With reference to the note which the Chargé d'Affaires of the United States was so good as to address to me under date of January 4th on the subject of the reciprocal release by His Majesty's Government in Great Britain and the Government of the United States of properties sequestrated in both countries under the Trading with the Enemy Acts, I have the honour to state that the memorandum enclosed in that note sets out accurately the position of His Majesty's Government in regard to the matters referred to therein, subject to the following slight amendments:—

On page 2 of the memorandum, line 11, "The British Trading with the Enemy Act" should read "The British Trading with the Enemy Acts."

On page 3 of the memorandum in the third paragraph marked "*B. Position of the British Government*" the word "number" should be "numbers", the question involved being the numbers of the certificates of the particular shares referred to.

2. In so far as the memorandum refers to questions of release, His Majesty's Government in Great Britain are prepared to carry out releases in the cases referred to therein, but portions of the memorandum appear to be inapplicable to release questions, notably paragraph 2 B. where it is a question of payment of American creditors, and paragraph 4 B. where the position of His Majesty's Government is defined and is governed by decisions of the Courts and of the Mixed Arbitral Tribunals.

3. I beg leave to state that the position of His Majesty's Government on the subject of reciprocity in connection with the British Trading with the Enemy Acts and the Treaties of Peace is accurately defined in the memorandum enclosed in Mr. Sterling's note under reference (subject to the above mentioned slight amendments) and that so far as the question of property capable of release is involved they are prepared, on being granted reciprocal treatment by the Government of the United States within the terms of the memorandum, to release such property as is covered by the terms of the understanding and on the conditions stated therein.

I have [etc.]

(For the Secretary of State)

ROBERT VANSITTART

¹² Copy transmitted to the Department by the Ambassador under covering despatch No. 1650, Feb. 25, 1927; received Mar. 11.

INTERPRETATION OF CONVENTION OF DECEMBER 2, 1899, AND MERCHANT MARINE ACT OF 1920 WITH RESPECT TO BRITISH COMMERCIAL RIGHTS IN AMERICAN SAMOA¹³

611.62 m 31/38a

Memorandum by the Solicitor for the Department of State
(Hackworth)

[WASHINGTON,] April 30, 1926.

The Department in 1920, through the American Embassy at London, brought to the attention of the British Government certain discriminatory tariff duties which had been imposed on American imports in that part of Samoa under the Mandate of New Zealand, and expressed the view that such duties were being levied in contravention of Article III of the Convention to Adjust the Question between the United States, Germany, and Great Britain in Respect to the Samoan Islands, concluded December 2, 1899.¹⁴ Article III of the Convention in question provides as follows:

"It is understood and agreed that each of the three signatory Powers shall continue to enjoy, in respect to their commerce and commercial vessels, in all the islands of the Samoan group privileges and conditions equal to those enjoyed by the sovereign Power, in all ports which may be open to the commerce of either of them."

Several communications were exchanged between the Embassy and the British Foreign Office regarding the matter and finally in a note, dated June 30, 1924, the Foreign Office informed the Embassy¹⁵ that the New Zealand authorities had invited attention to the fact that owing to the operation of the coastwise laws of the United States, British vessels trading between New Zealand and the United States were not permitted to carry goods and passengers between American Samoa and ports of the United States under the same conditions as American vessels. The New Zealand authorities, in a telegram which accompanied the British note referred to, pointed out that these restrictions upon British shipping in American Samoa were at least as inconsistent with the Convention of 1899 as were the British preferential duties in Western Samoa. They stated:

"If the Government of the United States definitely concede that New Zealand ships and all British ships are entitled to carry goods and passengers between American ports and ports of American Samoa, and that British shipping will receive exactly the same treatment in all other respects in such trade as American ships, both in American Samoa and in United States ports, then the New Zealand Government will reciprocally legislate to place American imports in the same position as the British imports in Western Samoa."

¹³ For previous correspondence regarding commercial rights in Samoa, see *Foreign Relations*, 1924, vol. II, pp. 241 ff.

¹⁴ *Ibid.*, 1899, p. 667.

¹⁵ *Ibid.*, 1924, vol. II, p. 243.

Prior to the enactment of the Act approved June 5, 1920, known as the Merchant Marine Act, 1920,¹⁶ British vessels were permitted to carry passengers and merchandise between the ports of American Samoa and the United States. However, in 1923, the Governor of American Samoa advised the Navy Department (under whose administration the island had been placed by Executive Order¹⁷) that in his judgment Article III of the Convention of 1899 was contravened in part by Section 21 of the Merchant Marine Act of 1920 and that, consequently, unless the Navy Department directed otherwise, no British or other foreign vessel would be permitted to carry merchandise between American Samoa and the United States. The matter was referred to this Department by the Secretary of the Navy¹⁸ and this Department, under date of June 6, 1923, replied in part as follows:

"It is not within the province of this Department to pass upon the question whether the coastwise laws of the United States are by virtue of Section 21 of the Merchant Marine Act, 1920, extended to American Samoa. Irrespective of the applicability of Section 21 to American Samoa, British subjects are, under Article III of the Convention referred to, entitled to enjoy with respect to their commerce and commercial vessels in all the ports of American Samoa open to commerce, privileges and conditions equal to those enjoyed by citizens of the United States.

"With respect to the contention of the Governor of American Samoa that Article III of the Convention referred to is superseded in part by Section 21 of the Merchant Marine Act, I may state that although the Department is aware that the courts have declared that when a treaty is inconsistent with a subsequent act of Congress the latter prevails, yet it may be observed that a judicial determination that an act of Congress is to prevail over a treaty does not relieve the Government of the United States of the obligations established by a treaty. When treaty obligations are disregarded a claim may be made to which the existence of domestic legislation does not constitute a defense. If such a claim were well founded and other methods of settlement failed, the usual recourse would be to an arbitration in which international rules of action and obligations would be the subject of consideration.

"For reasons indicated in the foregoing I deem it desirable that British subjects be accorded with respect to their commerce and vessels the same treatment in Samoa as is accorded American citizens and vessels."

Section 21 of the Merchant Marine Act of 1920 provides in part as follows:

"That from and after February 1, 1922, the coastwise laws of the United States shall extend to the Island Territories and possessions of the United States not now covered thereby, and the board is directed prior to the expiration of such year to have established ade-

¹⁶ 41 Stat. 988.

¹⁷ Of Feb. 10, 1900; quoted in *American Samoa, A General Report by the Governor* (Washington, Government Printing Office, 1922), p. 10.

¹⁸ By letter of Apr. 28, 1923, not printed (file No. 611.62 m 31/30).

quate steamship service at reasonable rates to accommodate the commerce and the passenger travel of said islands and to maintain and operate such service until it can be taken over and operated and maintained upon satisfactory terms by private capital and enterprise: *Provided*, That if adequate shipping service is not established by February 1, 1922, the President shall extend the period herein allowed for the establishment of such service in the case of any island Territory or possession for such time as may be necessary for the establishment of adequate shipping facilities therefor":

The President has not extended the period as provided by the section above quoted for the establishment of shipping service in the case of American Samoa, and it would seem, therefore, that if the section is applicable thereto the coastwise laws of the United States extend to that island territory or possession.

The note from the British Foreign Office presents two questions for consideration: first, whether Article III of the Convention confers the right upon British vessels irrespective of Section 21 of the Act in question to engage in the coastwise trade between American Samoa and the United States and, second, if such is the case, whether Article III is for domestic purposes superseded by this section, in which event, British vessels irrespective of the privileges theretofore enjoyed in that regard, may no longer engage in such coastwise trade.

The questions under consideration have been referred to the Navy and Treasury Departments, the Department of Commerce and the Shipping Board for an expression of their views and copies of the replies received are hereto attached.¹⁹ Neither the Treasury Department nor the Department of Commerce has considered that it was in a position to express an opinion on the subject. While the Navy Department and the Shipping Board are not in agreement with respect to the first question presented, both concur in the view that Section 21 of the Merchant Marine Act being of later date, supersedes Article III of the Convention, and, therefore, British vessels are not entitled to engage in the transportation of merchandise and passengers between ports of American Samoa and the United States.

Considering the first question presented, namely, whether irrespective of Section 21, Article III of the Convention confers upon British vessels the right to carry merchandise and passengers between the ports of American Samoa and the United States, it will be noted that the article in question stipulates that the signatory Powers shall continue to enjoy, in respect to their commerce and commercial vessels, privileges and conditions equal to those enjoyed by the sovereign Power in all ports in Samoa open to commerce. At the time the Convention was concluded British vessels might transport merchandise and passengers between the United States and the Samoan

¹⁹ Enclosures not printed.

Islands without restriction and in fact continued freely to engage in such commerce on equal terms with the American vessels until 1923. The provision in Article III that signatory Powers should continue to enjoy privileges and conditions equal to those enjoyed by the sovereign Power is an indication of an intention upon the part of the signatories that so far as commerce and commercial vessels were concerned the status existing at the time the Convention was concluded should irrespective of the partition of the islands be maintained. Although the Convention provides that such privileges and conditions are to be enjoyed "in all ports" of American Samoa, it is difficult to escape the conclusion that the language used in Article III is sufficiently broad to cover the transportation of merchandise between such ports and the United States, particularly in the light of the generally recognized rule that treaties entered into between friendly powers are to be given a liberal interpretation. As stated by the Supreme Court in the case of *Geofroy vs. Riggs* (133 U. S. 258)

"It is a general principle of construction, with respect to treaties, that they shall be liberally construed, so as to carry out the apparent intention of the parties to secure equality and reciprocity between them. As they are contracts between independent nations, in their construction, words are to be taken in their ordinary meaning, as understood in the public law of nations, and not in any artificial or special sense impressed upon them by local law, unless such restricted sense is equally [*clearly*] intended. And it has been held by this court that where a treaty admits of two constructions, one restrictive of rights that may be claimed under it, and the other favorable to them, the latter is to be preferred."

An enlarged signification was, early in our national history imparted to the term "commerce" by Chief Justice Marshall in the case of *Gibbons vs. Ogden* (9 Wheaton 1) in which he defined the term as employed in the Constitution of the United States as follows:—

"Commerce undoubtedly is trade but it is something more: it is intercourse; it describes the common [*commercial*] intercourse between nations and parts of nations in all its branches and is regulated by prescribing rules for carrying on that intercourse."

This enlarged meaning of the term "commerce" was subsequently adopted by the Supreme Court of the United States in the case of *Welton vs. Missouri* (91 U. S. 280). In that case the Court stated:

"Commerce is a term of the largest import which comprehends intercourse for the purposes of trade in any and all its forms including the transportation, purchase, sale and exchange of commodities between the citizens of our country and the citizens or subjects of foreign countries and between the citizens of different States."

If a British vessel carrying cargo from a port in the United States were to enter a port of American Samoa, and there be denied the privilege of landing such cargo except under the penalty of forfeiture im-

posed by the coastwise laws of the United States, while under similar conditions an American vessel were permitted to land its cargo free from penalty, it could hardly be maintained that the British vessel had been permitted to enjoy in the Samoan port privileges and conditions equal to those enjoyed by the vessel of the United States. If on the other hand a British vessel in a Samoan port were permitted to load a cargo destined for a port of the United States, it might doubtless be urged that the denial of the right to land the cargo in an American port would not, at least technically, constitute a violation of the stipulations of the treaty. However, the denial of the privilege of unloading the cargo in an American port under the conditions stated would inevitably result in British vessels in Samoa discontinuing the loading of merchandise destined for the United States and to this extent participation by British ships in Commerce in ports of American Samoa would be interfered with and Great Britain would be denied the enjoyment of privileges and conditions in Samoa equal to those enjoyed by American Commerce. In any event, in causing a forfeiture of the cargo transported from American Samoa in a British vessel, this Government would be laying itself open to the charge that it was seeking by indirection to do that which could not be directly accomplished and such action, if technically within the letter of the Convention, certainly would be regarded as in contravention of the spirit of it.

If Article III of the Convention of 1899 is susceptible of the interpretation that British vessels were, prior to the passage of the Merchant Marine Act of 1920, entitled to engage in the transportation of merchandise between American Samoa and the United States, there remains to be considered whether the provisions of Section 21 of the Act have superseded the provisions of the Convention.

The Shipping Board and the Navy Department in holding that Article III of the Convention is abrogated by the section of the Act referred to rely upon the familiar rule of the courts that a treaty is subject to such acts as Congress may pass for its enforcement, modification or repeal and, that when a subsequent Act of Congress is inconsistent with a treaty, the former prevails.

In the *Head Money Cases* (112 U. S. 599), the Supreme Court of the United States stated in part,

"In short, we are of opinion that, so far as a treaty made by the United States with any foreign nation can become the subject of judicial cognizance in the courts of this country, it is subject to such acts as Congress may pass for its enforcement, modification or repeal."

In the case of *Whitney vs. Robertson* (124 U. S. 190) in which the question of the effect of the treaty concluded February 8, 1867 with the Dominican Republic²⁰ was considered, the Supreme Court of the United States stated in part:

" . . .²¹ If the treaty contains stipulations which are self-executing, that is, require no legislation to make them operative, to that extent they have the force and effect of a legislative enactment. Congress may modify such provisions, so far as they bind the United States, or supersede them altogether. By the Constitution a treaty is placed on the same footing and made of like obligation, with an act of legislation. Both are declared by that instrument to be the supreme law of the land, and no superior efficacy is given to either over the other. When the two relate to the same subject, the courts will always endeavor to construe them so as to give effect to both, if that can be done without violating the language of either; but if the two are inconsistent, the one last in date will control the other, provided always the stipulation of the treaty on the subject is self-executing. If the country with which the treaty is made is dissatisfied with the action of the legislative Department, it may present its complaint to the executive head of the government, and take such other measures as it may deem essential for the protection of its interests. The courts can afford no redress. Whether the complaining nation has just cause of complaint, or our country was justified in its legislation, are not matters for judicial cognizance."

The principles announced by the Supreme Court of the United States in the foregoing cases clearly establish that for municipal purposes treaties may be superseded by Acts of Congress. This principle if applicable to the present case would seem to support the contention that Article III of the Convention is impliedly superseded by Section 21 of the Merchant Marine Act. That Act, however, does not refer to the Article of the Convention and a question suggests itself whether it was the intention of Congress in extending in general terms the coastwise laws of the United States to the island territories and possessions, to interfere with the treaty obligations of this Government. In ascertaining the intention of Congress and the effect, if any, upon the privileges conferred by the Convention upon British vessels by the enactment of the legislation in question, it will be helpful to apply certain generally recognized rules of statutory construction.

While Congress may for domestic purposes nullify a treaty previously concluded with another nation, the courts have held that:—

"the purpose by statute to abrogate a treaty or any designated part of a treaty . . . must not lightly be assumed but must appear clearly and distinctly from the words used in the Statute or the treaty."
(*U. S. vs. Lee Yen Tai*, 185 U. S. 213)

Moreover, repeals by implication are neither favored nor presumed. As stated by the Supreme Court of the United States in the case of *Chew Heong vs. United States* (112 U. S. 549);

²¹ Omission indicated in the memorandum.

“...²² The utmost that could be said, in the case supposed, would be, that there was an apparent conflict between the mere words of the statute and the treaty, and that, by implication, the latter, so far as the people and the courts of this country were concerned, was abrogated in respect of that class of Chinese laborers to whom was secured the right to go and come at pleasure. But even in the case of statutes, whose repeal or modification involves no question of good faith with the government or people of other countries, the rule is well settled that repeals by implication are not favored, and are never admitted where the former can stand with the new act. *Ex parte Yerger*, 8 Wall. 85, 105.”

It is also a generally recognized rule of statutory construction that a later statute general in its terms and not expressly repealing a prior special statute will not ordinarily affect the special provisions of the earlier statute. In the case of *Rodgers vs. U. S.*, 185 U. S. 83, the Supreme Court stated:

“It is a canon of statutory construction that a later statute, general in its terms and not expressly repealing a prior special statute, will ordinarily not affect the special provisions of such earlier statute. In other words, where there are two statutes, the earlier special and the later general—the terms of the general broad enough to include the matter provided for in the special—the fact that one is special and the other is general creates a presumption that the special is to be considered as remaining an exception to the general, and the general will not be understood as repealing the special, unless a repeal is expressly named, or unless the provisions of the general are manifestly inconsistent with those of the special.”

To the same effect is the rule announced in the case of the *U. S. v. Nix* (189 U. S. 199), in which the Supreme Court stated in part:

“The rule of statutory construction is well settled that a general act is not to be construed as applying to cases covered by a prior special act upon the same subject. On this principle we held in *Townsend v. Little*, 109 U. S. 504, that special and general statutory provisions may subsist together, the former qualifying the latter.”

It seems to be a general rule of construction in the case of revenue statutes that:

“specific provisions for duties on a particular article are not repealed or affected by the general words of a subsequent statute, although the language is sufficiently broad to cover the article first mentioned.” (*Movius v. Arthur*, 95 U. S. 144).

Applying the foregoing rules of construction to the case under consideration, it will be noted that while certain acts and parts of acts enumerated in Section 2 of the Merchant Marine Act are thereby repealed, subject to certain conditions and exceptions, no mention is made in that section or elsewhere in the Act of the Convention of 1899

²² Omission indicated in the original memorandum.

and such an omission may be said to imply the absence of intention upon the part of Congress to interfere with any of the provisions of the Convention in question.

As possibly bearing on the question whether Congress contemplated the repeal of the Treaty of 1899, reference is made to Section 34 of the Merchant Marine Act which provides that:

“Treaties or conventions to which the United States is a party which restrict the right of the United States to impose discriminating customs duties on imports entering the United States in foreign vessels and in vessels of the United States, and which also restrict the right of the United States to impose discriminatory tonnage duties on foreign vessels and on vessels of the United States entering the United States shall be terminated, and the President is hereby authorized and directed to give notice to the foreign governments to terminate such treaties as may be provided in the provisions thereof.”

Without discussing whether the section quoted has application to the Treaty of 1899, it may be observed that the notices of termination contemplated by Section 34 have not been given with respect to any treaty to which the United States is a party and that the Treaty of 1899 contains no provision for termination on notice by any of the signatories.

Moreover, Section 21 extending the coastwise laws of the United States to the island territories and possessions not covered thereby is a statute general in its terms, whereas Article III of the Convention is in the nature of special legislation. If the rule of construction referred to above is applicable to the present case, it might, perhaps be possible to interpret Article 21 as prohibiting in general all vessels of foreign registry from carrying merchandise between the ports of American Samoa and the United States, or between the ports of that possession, subject to the special privileges and conditions conferred by the Convention upon the commerce and commercial vessels of Great Britain.

It is noted that the Shipping Board has taken the position that inasmuch as a reference to the coasting trade was not included in Article III, it should never be presumed in the absence of a clear intent that a sovereign Power has estopped itself from exercising its rights of sovereignty, especially when such rights relate to a well known and long established national policy. Irrespective of the question whether the presumption referred to by the Shipping Board is well founded in fact or in law, it does not seem necessary in the present case to consider the force or effect of such a presumption for the reason that prior to the conclusion of the Convention the United States exercised no sovereign rights over American Samoa, but only acquired sovereignty over such territory by virtue of the renunciation by Great Britain and Germany in Article II of the Convention of their rights and claims to such terri-

tory. The consideration for renunciation of territorial rights by Great Britain and Germany was not confined to the renunciation by the United States of its rights to the territory which those nations received under the Convention, but included the guarantee given in Article III of the Convention that in the territory over which sovereignty was thus acquired, British and German commerce and vessels were to enjoy privileges and conditions equal to those enjoyed by the United States. As stated by Attorney General Cushing (6 Op. Attorney Gen. 148).

"Now, in the treaties and conventions between nations, the general doctrine is that any special advantage conceded by a party under any one article of the contract is in consideration of all the advantages enjoyed by the same party under that and all other articles of the treaty. Each particular article is consented to by each party in consideration of all the other articles, and all the articles united form the consideration of each particular article.

"Vattel lays down the rule as follows:²³—'We cannot consider the several articles of the same treaty as so many distinct and independent treaties; for, though we do not see any immediate connection between some of those articles, they are all connected by this common relation, viz.: that the contracting powers have agreed to some of them in consideration of the others, and by way of compensation. I would, perhaps, never have consented to this article, if my ally had not granted me another, which in its own nature has no relation to it. Everything, therefore, which is comprehended in the same treaty, is of the same force and nature as a reciprocal promise, unless where a formal exception is made to the contrary.'"

Under the circumstances related, the presumption relied upon by the Shipping Board would seem to have little, if any weight.

In the absence of a clear intention upon the part of Congress, that Article III of the Convention should be superseded by Section 21 of the Act, it would seem advisable that the section should be interpreted if it can be done in accordance with the accepted rules of construction, so as not to disturb the reciprocal privilege with respect to commerce in Samoan ports enjoyed by British and American vessels, under the Convention of 1899.

G[REEN] H. H[ACKWORTH]

611.62 m 31/38a

The Secretary of State to the Attorney General

WASHINGTON, May 1, 1926.

SIR: I have the honor to request an opinion from your Department on the following questions:

²³ Edward D. Ingraham (ed.), *The Law of Nations; or, Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns* (From the French of Monsieur de Vattel; from the new edition, by Joseph Chitty, Esq.), with additional notes and references (Philadelphia, T. & J. W. Johnson & Co., 1883), book II, ch. XIII, sec. 202, 8th sentence, p. 215.

1. Did Article III of the Convention to Adjust the Question in Respect to the Samoan Islands Between the United States, Germany and Great Britain, concluded on December 2, 1899, confer on British vessels the right to engage in the coastwise trade between American Samoa and the United States? The article provides that:

"It is understood and agreed that each of the three signatory Powers shall continue to enjoy, in respect to their commerce and commercial vessels, in all the islands of the Samoan group privileges and conditions equal to those enjoyed by the sovereign Power, in all ports which may be open to the commerce of either of them."

2. If the above question is answered affirmatively did Section 21 of the Act of June 5, 1920 (Merchant Marine Act, 41 Stat. L. 997) supersede, as a matter of municipal law, Article III of the Convention of 1899 and thereby terminate the right conferred by that Article on British vessels to engage in the coastwise trade between American Samoa and the United States? Section 21 of the Act provides in part as follows:

"That from and after February 1, 1922, the coastwise laws of the United States shall extend to the island Territories and possessions of the United States not now covered thereby, and the board is directed prior to the expiration of such year to have established adequate steamship service at reasonable rates to accommodate the commerce and the passenger travel of said islands and to maintain and operate such service until it can be taken over and operated and maintained upon satisfactory terms by private capital and enterprise: *Provided*, That if adequate shipping service is not established by February 1, 1922, the President shall extend the period herein allowed for the establishment of such service in the case of any island Territory or possession for such time as may be necessary for the establishment of adequate shipping facilities therefor."

The President has not extended the period provided by the Section above quoted for the establishment of shipping service in the case of American Samoa and if Section 21 is applicable thereto, the coastwise laws of the United States would seem to have been extended to American Samoa.

These questions have arisen in the course of correspondence now being conducted between this Government and the Government of Great Britain respecting certain discriminatory tariff duties imposed on American imports in that part of Samoa under mandate of New Zealand. In reply to the claim of this Government that the discriminatory duties mentioned were in contravention of Article III of the Treaty of 1899 above referred to, the New Zealand authorities invited attention to the fact that owing to the operation of the coastwise laws of the United States British vessels trading between New Zealand and the United States were not permitted to carry goods and passengers between American Samoa and the United States under the same

conditions as American vessels and that this restriction was at least as inconsistent with the Convention of 1899 as the British preferential duties in Western Samoa. They added that ²⁴—

“If the Government of the United States definitely concede that New Zealand ships and all British ships are entitled to carry goods and passengers between American ports and ports of American Samoa, and that British shipping will receive exactly the same treatment in all other respects in such trade as American ships, both in American Samoa and in United States ports, then the New Zealand Government will reciprocally legislate to place American imports in the same position as the British imports in Western Samoa.”

Your opinion on the questions herein submitted is desired for the Department's guidance in its further consideration of the above quoted proposal of the New Zealand authorities and in view of the desirability of disposing of the matter as soon as practicable, I should be grateful to be informed of your views on the questions at your early convenience.

I enclose herewith a memorandum on the subject by the Solicitor for this Department ²⁵ and copies of the correspondence mentioned therein, ²⁶ together with copies of the Act of June 5, 1920 and the Treaty respecting Samoa concluded on December 2, 1899 between the United States, Germany and Great Britain.

I have [etc.]

FRANK B. KELLOGG

611.62 m 31/42

The Attorney General to the Secretary of State

WASHINGTON, January 27, 1927.

SIR: I have the honor to acknowledge your letter of May 1st last, in which you request an opinion upon the following questions:

1. Did Article III of the Convention to adjust the question in respect to the Samoan Islands between the United States, Germany and Great Britain concluded on December 2, 1899 confer on British vessels the right to engage in coastwise trade between American Samoan Islands and the United States?

2. If the above question is answered affirmatively did Section 21 of the Act of June 5, 1920 (Merchant Marine Act, 41 Stat. L. 997) supersede as a matter of municipal law Article III of the Convention of 1899, and thereby terminate the right conferred by that Article on British vessels to engage in the coastwise trade between American Samoa and the United States?

Accompanying your memorandum were copies of opinions submitted by the Solicitor of the Department of State, ²⁷ the Judge

²⁴ Paragraph numbered 5, *Foreign Relations*, 1924, vol. II, p. 246.

²⁵ *Supra*.

²⁶ Not printed.

²⁷ *Ante*, p. 760.

Advocate General of the Navy²⁸ and counsel for the United States Shipping Board.²⁸

The Convention in question was entered into by the United States of America, Germany and Great Britain and sought to adjust amicably the questions between the three governments in respect to the Samoan group of islands. The Convention was signed December 2, 1899, subsequently ratified and ratifications exchanged February 16, 1900. Section III of this Convention, which gives rise to the questions asked, reads as follows (31 Stat. 1878, 1879) :

It is understood and agreed that each of the three signatory Powers shall continue to enjoy, in respect to their commerce and commercial vessels, in all the islands of the Samoan group privileges and conditions equal to those enjoyed by the sovereign Power, in all ports which may be open to the commerce of either of them.

From your letter and the accompanying papers it appears that at the time this Convention was entered into vessels of British registry were plying and transporting merchandise between American Pacific Coast ports and the several ports of the Samoan Islands, including the ports over and in respect to which Germany and Great Britain by the Convention of 1899 renounced all rights and claims in favor of the United States, and continued to do so until after the passage of the Act presently to be considered.

On June 5, 1920, however, Congress enacted the Merchant Marine Act, Section 21 of which provides in part as follows (Ch. 250, 41 Stat. 988, 997) :

That from and after February 1, 1922, the coastwise laws of the United States shall extend to the island Territories and possessions of the United States not now covered thereby, and the board is directed prior to the expiration of such year to have established adequate steamship service at reasonable rates to accommodate the commerce and the passenger travel of said islands and to maintain and operate such service until it can be taken over and operated and maintained upon satisfactory terms by private capital and enterprise: *Provided*, That if adequate shipping service is not established by February 1, 1922, the President shall extend the period herein allowed for the establishment of such service in the case of any island Territory or possession for such time as may be necessary for the establishment of adequate shipping facilities therefor: . . .²⁹

By Section 27 it was provided:

That no merchandise shall be transported by water, or by land and water, on penalty of forfeiture thereof, between points in the United States, including Districts, Territories, and possessions thereof embraced within the coastwise laws, either directly or via a foreign

²⁸ Not printed.

²⁹ Omission indicated in the original opinion.

port, or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States, or vessels to which the privilege of engaging in the coastwise trade is extended by section 18 or 22 of this Act: . . .^{29a}

The provisions of Section 18 are not material to the present inquiry. Section 22 relates to Hawaii and is considered hereinafter. The President has not extended the period provided by Section 21 for the establishment of the shipping service in the case of American Samoa. In 1923 the Governor of American Samoa advised the Navy Department (under whose administration the Islands had been placed by Executive Order) that unless otherwise directed by the Navy Department, no British or other foreign vessel would be permitted to carry merchandise between continental ports of the United States and American Samoan ports.

In December, 1920, the American Embassy at London brought to the attention of the British Government certain discriminatory tariff duties which had been imposed on American imports in those ports of Samoa under mandate to New Zealand and expressed the view that such duties were being levied in contravention of Article III of the Convention of 1899. This resulted in several communications being exchanged between the Embassy and the British foreign office culminating in a note dated June 30, 1924,³⁰ in which the foreign office informed the Embassy that the New Zealand authorities had invited attention to the fact that owing to the extension of our coastwise laws to the Samoan Islands, British vessels trading between New Zealand and the United States were not permitted to carry goods and passengers between American Samoa and ports of the United States on the same terms and conditions as American vessels; and pointed out that these restrictions upon British shipping in American Samoa were at least as inconsistent with the terms of the Convention of 1899 as were the British preferential duties in Western Samoa. They added an assurance, however, that if the Government of the United States would concede that New Zealand and all British ships were entitled to carry goods and passengers between American ports and ports of American Samoa, and to receive in both ports the same treatment as American ships, the New Zealand Government would place American imports in the same position as British imports in Western Samoa.

The first question is whether Article III of the Convention of 1899 gives to British vessels the right to transport cargo and passengers between the United States continental ports and American Samoan ports.

^{29a} Omission indicated in the original opinion.

³⁰ *Foreign Relations*, 1924, vol. II, p. 243.

It is the general principle of construction with respect to treaties that they shall be liberally construed so as to carry out the apparent intention of the parties; and, as stated by the United States Supreme Court in the case of *Geofroy v. Riggs*, 133 U. S. 258, 271:

As they are contracts between independent nations, in their construction words are to be taken in their ordinary meaning, as understood in the public law of nations, and not in any artificial or special sense impressed upon them by local law, unless such restricted sense is equally [*clearly*] intended. And it has been held by this Court that where a treaty admits of two constructions, one restrictive of rights that may be claimed under it and the other favorable to them, the latter is to be preferred.

Applying this principle, it seems clear that the purpose of the Convention, as expressed in Article III, was to maintain, with respect to the commerce and commercial vessels of each of the signatory powers, the status existing at the time the Convention was concluded, notwithstanding the partition of sovereignty over the Islands. I am, therefore, of opinion that the privilege then enjoyed by British vessels of engaging in the transportation of passengers and merchandise between American Samoa and the continental United States was one which, by the terms of the Convention, they were to continue to enjoy. In reaching this conclusion I have not overlooked the words of the Convention "in respect to their commerce and commercial vessels in all the islands of the Samoan group," for it can hardly be plausibly argued that the denial to a British vessel of the right to land in a Samoan port cargo taken on at an American continental port, except under penalty of forfeiture, is not a denial to a British vessel of a privilege enjoyed by an American vessel.

There remains the question whether the extension of our coastwise laws to our Island possessions to that extent superseded Article III of the Convention and terminated the rights secured to Great Britain thereby. Under the Constitution of the United States a treaty and a statute stand on the same footing, and if the two are inconsistent the one later in date will control. Where, however, they relate to the same subject the Court will always endeavor to construe them so as to give effect to both. *Whitney v. Robertson*, 124 U. S. 190, 194, 195; *Botiller v. Dominguez*, 130 U. S. 238, 247.

Repeals by implication are neither favored nor presumed (*Chew Heong v. United States*, 112 U. S. 549), and a later statute, general in its terms and not expressly repealing a prior special statute, will not ordinarily affect the special provisions of the earlier statute. *Rodgers v. United States*, 185 U. S. 83. While Congress may, for domestic purposes, abrogate a treaty or parts thereof, such a purpose must not lightly be assumed, but must appear clearly and distinctly from the words used in the statute or the treaty. *United States v.*

Lee Yen Tai, 185 U. S. 213. In this case I am unable to see how Section 21 of the Merchant Marine Act, which though general in its terms is definite in its application, can be given a reasonable effect if, at the same time, the rights of British vessels secured by the Convention are to be preserved. To allow British vessels to transport passengers and merchandise between American ports is wholly inconsistent with our coastwise laws, and with the specific provisions of Section 27 of the same Act, and with the unmistakable purpose of the Act. The Act is entitled:

An Act to provide for the promotion and maintenance of the American Merchant Marine, to repeal certain emergency legislation, and provide for the disposition, regulation, and use of property acquired thereunder, and for other purposes.

It begins with the declaration that it is necessary for the national defense and for the proper growth of its foreign and domestic commerce that the United States shall have a merchant marine sufficient to carry the greater portion of its commerce and serve as a naval or military auxiliary in time of war, and it is declared to be the policy of the United States "to do whatever may be necessary to develop and encourage the maintenance of such a merchant marine."

By Section 7 the Board was authorized and directed to investigate and determine as promptly as possible what steamship lines should be established and put in operation from ports in the United States or any territory, district or possession thereof to such world and domestic markets as in its judgment are desirable for the promotion, development, expansion and maintenance of the foreign and coastwise trade of the United States with a view to furnishing adequate, regular, certain and permanent service.

In addition to the provisions of Section 21 already quoted, that section contains a proviso that the preceding provisions of the section shall not take effect with reference to the Philippine Islands until the President, after a full investigation of the local needs and conditions, shall by proclamation declare that an adequate shipping service has been established, as provided by the Act, and fix a date for the going into effect of the same.

By Section 22, the Act of October 6, 1917,³¹ giving the Board power to suspend provisions of law and to permit vessels of foreign registry, and foreign built vessels admitted to American registry, to engage in coastwise trade during the war, was repealed, with a proviso that the Board was authorized to issue permits for the carrying of passengers in foreign ships, if it deemed it necessary so to do, operating between the Territory of Hawaii and the Pacific Coast, up to February 1, 1922.

³¹ 40 Stat. 392.

We have, therefore, a clearly expressed declaration of policy by the United States to do whatever may be necessary to develop and encourage the maintenance of a merchant marine for purposes of national defense and the growth of foreign and domestic commerce. To effectuate that purpose we have a direction to the Shipping Board to establish, maintain and operate adequate steamship service to accommodate the commerce of the Island Territories and possessions. We have a repeal of the Act permitting foreign vessels to engage in coastwise trade, and at the same time an extension of our coastwise laws to these Territories and possessions, carrying with it a prohibition, under penalty of forfeiture, against the transportation of goods between points in the United States defined as including its territories and possessions, except in our own vessels; and finally we have a limited exemption of Hawaii and the Philippine Islands from the prohibition. Our island possessions are not numerous, and the fact that the statute makes special exemption of those two leaves no doubt that the others were to be included in the general language of the Act. I am of opinion, therefore, that Section 21 of the Merchant Marine Act superseded, as a matter of municipal law, Article III of the Convention of 1899, and terminated the right conferred by that Article on British vessels to engage in the coastwise trade between American Samoa and continental United States.

Respectfully,

JNO. G. SARGENT

NEGOTIATIONS IN REGARD TO THE ADMINISTRATION OF THE TURTLE ISLANDS AND TO THE BOUNDARY BETWEEN THE PHILIPPINE ISLANDS AND BRITISH NORTH BORNEO

711.4115A/16a

The Secretary of State to the British Chargé (Craigie)

WASHINGTON, January 29, 1921.

SIR: I have the honor to refer to a note from the Embassy, dated July 3, 1907, and this Department's reply, dated July 10th, of the same year,³² having to do with the question of the administration by the British North Borneo Company of certain islands on the East Coast of Borneo. It was provided in paragraph five of the arrangement covered by that exchange of notes that the understanding, by which the said islands were left for the time being under the administration of the Company, should "continue until the said two governments may by treaty delimit the boundary between their respective domains in that quarter, or until the expiry of one year from the date when notice of termination be given by either to the other."

³² *Foreign Relations*, 1907, pt. 1, pp. 547, 548.

The Governor of the Philippine Islands has informed this Government that for reasons of public order and control, and to complete the organization of local government in the south Philippines, it is highly desirable that the above mentioned arrangement be terminated, at least in so far as it applies to certain of the islands in question.

This Government is informed that the Government of the Philippine Islands has made all of the necessary preparations to extend its administration over these islands upon receipt of advice that they have been turned over.

In view of the above circumstances I have the honor to ask that you will bring this matter to the attention of your Government with the request that it will authorize you to enter into negotiations with the Department with a view to effecting a new understanding between the two Governments modifying the arrangement of 1907 with respect to certain of the islands in question, and leaving the others under the administration of the British North Borneo Company, until such time as a definitive delimitation may have been effected.

Accept [etc.]

For the Secretary of State:

ALVEY A. ADEE

711.4115A/20a

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, April 21, 1925.

EXCELLENCY: Adverting to this Department's notes of January 29, 1921, to Mr. Craigie, and of April 29, 1922, to Sir Auckland Geddes,³³ regarding the desire of this Government that a new understanding be effected between the British and American Governments modifying the arrangement of 1907 with respect to the temporary administration of certain islands off the east coast of Borneo, I have the honor to request you to be so good as to inform me whether it has yet been found possible to come to any decision concerning this matter.

For the purpose of convenient reference I may say that the British Embassy's note No. 346 of May 4, 1922,³⁴ stated that this Department's note of January 29, 1921, to Mr. Craigie, had been temporarily mislaid and requested a copy, which was transmitted in this Department's reply of May 13, 1922.³⁴ On September 16, 1922, Mr. Peterson, Secretary of the British Embassy, addressed to Mr. Lockhart, of this Department, an inquiry regarding the question above mentioned, and reply was made on September 21, 1922,³⁵ since which time it does not

³³ Letter of Apr. 29, 1922, not printed.

³⁴ Not printed.

³⁵ Neither of these letters printed.

appear that there has been any correspondence on the subject between the British Embassy and this Department.

Since it is the desire of this Government to assume at present administration over only the seven islands mentioned in Mr. Lockhart's letter of September 20, 1922, to Mr. Peterson, namely: Boaan, Lihiman, Langaan, Great Bakkungaan, Little Bakkungaan, Taganac and Baguan, it would seem preferable to provide for this by a modification of the existing agreement, if possible, rather than to proceed to a denunciation of the entire agreement in accordance with paragraph five of the temporary arrangement.

Accept [etc.]

FRANK B. KELLOGG

711.4115A/22

The British Ambassador (Howard) to the Secretary of State

No. 279

WASHINGTON, April 21, 1926.

SIR: With reference to Mr. Chilton's note No. 851 of October 2nd last³⁶ regarding the administration of certain islands off the east coast of Borneo, I have the honour to reply as follows to the points raised in your note of April 21st, 1925, and previous correspondence in regard to this matter:

His Majesty's Government agree with the United States Government that it would be preferable to arrange for the assumption by the latter of administration over islands hitherto administered by the British North Borneo Company by a modification rather than by a denunciation of the existing agreement. Before proceeding to such modification, however, they desire to put forward the following considerations.

Of the seven islands mentioned in your note of April 21st, 1925 as those over which the United States now desire to assume administration, His Majesty's Government consider that the British North Borneo Company have a good claim to Great Bakkungan and Little Bakkungan. A portion, if not the whole, of Great Bakkungan falls within the limit of nine miles from the mainland of British North Borneo, fixed by treaty as the limit of the company's territory, if this distance be measured from low watermark. As regards Little Bakkungan this lies within nine marine miles of the mainland even at high water.

Nevertheless, His Majesty's Government would agree to waive any claim on behalf of the company to these two islands, provided the United States Government on their part undertake (a) to give for

³⁶ Not printed.

the maintenance of the light-house which the company have erected on the island of Taganac the following full facilities:

(1) A lease, free of premium, rent, or other restrictions, of an area of two acres of land, to include the site of the present light-house. The boundaries of this area to be agreed on the spot by an Officer of this Government and an Officer authorised by the United States authorities. This lease should be a perpetual lease, forfeitable if the light is discontinued for a period of more than twelve months.

(2) The right to import, free of all restrictions, fuel, accessories, materials and spare parts for the light and lighthouse buildings and foodstuffs and personal effects of the attendants in the event of an attended light being installed.

(3) A grant, covering each individual inspector for the period of his appointment, of a general authority to land and visit the light-house at any time; i. e. each individual inspecting officer would carry a free pass, drawn up in whatever form the United States Government consider most appropriate.

(4) Freedom from dues or other imposts for launches or other vessels visiting Taganac in connection with the light.

(5) The right to cut down jungle or to do anything to ensure the maintenance of a clear beam of light throughout three hundred and sixty degrees.

(b) to give assurances that an effective police post will be established by them on one of the islands. His Majesty's Government regard the establishment of such a post as necessary, in view of the fear of the company regarding the difficulties which might arise in the matter of suppressing piracy and arresting criminals escaping from or avoiding the jurisdiction of the North Borneo Government. His Majesty's Government are informed in this connection that there have been numerous instances in which gangs of pirates have used these islands as a base from which to attack Chinese junks passing between Sandakan and other North Borneo ports, and that on these occasions police patrols from Sandakan have had to visit and search each island in turn in order to break up the gangs. Moreover, as regards the possibility of the escape of criminals from Sandakan town and district, it is to be remembered that the group of islands can be reached by a native canoe with a favouring wind in the course of two or three hours from Sandakan Harbour. In order, therefore, that persons required by the North Borneo Government for extraditable offences may be promptly arrested and held on provisional warrants pending the completion of extradition proceedings and the receipt of the formal warrants of surrender, it is necessary that an effective police post with facilities for patrolling the group should be established on one of the islands.

Further, it will of course be clear to you that these islands, if they should be subsequently transferred to a third state, will remain subject to the restrictive provisions respecting fortification attaching to them

under Article 19 of the Washington Naval Treaty.³⁷ His Majesty's Government would be glad to receive a definite statement from the United States Government undertaking that any such future transfer would be subject to the observance of those provisions.

I have [etc.]

ESME HOWARD

711.4115A/22 supp.

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, August 20, 1927.

EXCELLENCY: I have the honor further to refer to your note of April 21, 1926, in which you stated that the British Government agrees on certain conditions to the proposal of my Government for the assumption by the Philippine Government of the administration of certain islands on the east coast of Borneo which are now being administered by the British North Borneo Company in conformity with the Agreement concluded between the United States and Great Britain on July 10, 1907.

The conditions on which your Government expressed its willingness to agree to the proposal of the Government of the United States were communicated to the Philippine Government and that Government has expressed the view that instead of the proposed modification of the Agreement of 1907, placing some of the islands under the administration of the Philippine Government and leaving the boundary between the Philippine Archipelago and Borneo still definitely undetermined, it would be preferable that an agreement be concluded between the United States and Great Britain definitely determining the boundary, in accordance with paragraph 5 of the Agreement of July 10, 1907.

My Government concurs in the views of the Philippine Government and accordingly I have the honor to propose that the United States and Great Britain enter upon negotiations for the conclusion of a treaty to accomplish the definitive delimitation of the boundary.

The United States is prepared to agree that the boundary between the Philippine Archipelago and British North Borneo be as indicated in red ink on the accompanying charts (Nos. 4707 and 4720, published by the United States Coast and Geodetic Survey)³⁸ and described as follows:

"From the point of intersection of the parallel of four degrees forty five minutes (4°45') north latitude and the meridian of longitude one hundred twenty degrees (120°0') east of Greenwich, (being a point on the boundary defined by the Treaty between the United States of

³⁷ *Foreign Relations*, 1922, vol. I, p. 247.

³⁸ Enclosures not printed.

America and Spain signed at Paris, December 10, 1898³⁹), a line due south along the meridian of longitude one hundred twenty degrees ($120^{\circ}0'$) east of Greenwich to its point of intersection with the parallel of four degrees twenty three minutes ($4^{\circ}23'$) north latitude;

thence due west along the parallel of four degrees twenty three minutes ($4^{\circ}23'$) north latitude to its intersection with the meridian of longitude one hundred nineteen degrees ($119^{\circ}0'$) east of Greenwich;

thence due north along the meridian of longitude one hundred nineteen degrees ($119^{\circ}0'$) east of Greenwich to its intersection with the parallel of four degrees forty two minutes ($4^{\circ}42'$) north latitude;

thence in a straight line approximately $45^{\circ}54'$ true (N $45^{\circ}54'$ E) to the intersection of the parallel of five degrees sixteen minutes ($5^{\circ}16'$) north latitude and the meridian of longitude one hundred nineteen degrees thirty five minutes ($119^{\circ}35'$) east of Greenwich;

thence in a straight line approximately $314^{\circ}19'$ true (N $45^{\circ}41'$ W) to the intersection of the parallel of six degrees ($6^{\circ}0'$) north latitude and the meridian of longitude one hundred eighteen degrees fifty minutes ($118^{\circ}50'$) east of Greenwich;

thence due west along the parallel of six degrees ($6^{\circ}0'$) north latitude to its intersection with the meridian of longitude one hundred eighteen degrees twenty minutes ($118^{\circ}20'$) east of Greenwich;

thence in a straight line approximately $307^{\circ}40'$ true (N $52^{\circ}20'$ W) passing between Little Bakkungaan Island and Great Bakkungaan Island to the intersection of the parallel of six degrees seventeen minutes ($6^{\circ}17'$) north latitude and the meridian of longitude one hundred seventeen degrees fifty eight minutes ($117^{\circ}58'$) east of Greenwich;

thence due north along the meridian of longitude one hundred seventeen degrees fifty eight minutes ($117^{\circ}58'$) east of Greenwich to its intersection with the parallel of six degrees fifty two minutes ($6^{\circ}52'$) north latitude;

thence in a straight line approximately $315^{\circ}16'$ true (N $44^{\circ}44'$ W) to the intersection of the parallel of seven degrees twenty four minutes forty five seconds ($7^{\circ}24'45''$) north latitude with the meridian of longitude one hundred seventeen degrees twenty five minutes thirty seconds ($117^{\circ}25'30''$) east of Greenwich;

thence in a straight line approximately $300^{\circ}56'$ true (N $59^{\circ}4'$ W) through the Mangsee Channel between Mangsee Great Reef and Mangsee Islands to the intersection of the parallel of seven degrees forty minutes ($7^{\circ}40'$) north latitude and the meridian of longitude one hundred seventeen degrees ($117^{\circ}0'$) east of Greenwich (the latter point being on the boundary defined by the Treaty between the United States of America and Spain signed at Paris, December 10, 1898)."

For purposes of comparison there has been plotted on the accompanying chart, No. 4707, the so-called "Durand Line" as shown on the map referred to in the Third Article of the Agreement of 1907. It will be observed that the boundary now proposed by the United States lies farther from Borneo than does the "Durand Line", except in the vicinity of the Turtle Islands, and in the portion of the 119th meridian where the two lines coincide.

³⁹ *Foreign Relations*, 1898, p. 831.

With respect to the statement in your note under reference, that the British North Borneo Company has a good claim to Great Bakkungaan and Little Bakkungaan Islands, it will be observed that the boundary above described places Little Bakkungaan Island on the British side of the line. With respect to the desire of your Government to obtain for the British North Borneo Company a lease of an area on Taganac Island and certain privileges to insure the operation of the lighthouse now operated by the company on that island, you are informed that the Philippine Government is prepared to take over and maintain the lighthouse, and negotiations to that end would form part of the negotiations looking to the conclusion of the proposed treaty.

Should the proposal herein made meet with the approval of your Government, it is suggested that the negotiations be conducted in Washington.

Accept [etc.]

FRANK B. KELLOGG

NEGOTIATIONS FOR CONVENTION BETWEEN THE UNITED STATES,
GREAT BRITAIN, AND IRAQ REGARDING RIGHTS OF THE UNITED
STATES AND OF ITS NATIONALS IN IRAQ⁴⁰

SS90g.01/179

The Secretary of State to the Ambassador in Great Britain
(Houghton)

No. 601

WASHINGTON, July 13, 1926.

SIR: The Department refers to its written instruction No. 627 of April 20, 1925,⁴¹ reviewing its position regarding the rights of this Government and its nationals in Iraq and directing the Embassy to propose to the British Foreign Office the negotiation of an agreement with respect to such rights similar to that reached regarding American rights in Palestine as set forth in the American-British convention of December 3, 1924.⁴² Reference is made also to Mr. Atherton's letter of February 9, 1926, to Mr. Allen W. Dulles, then Chief of the Department's Division of Near Eastern Affairs,⁴³ from which it would appear that, in response to the Embassy's representations, the Foreign Office had expressed itself as not adverse to entering into the proposed negotiations but as preferring, before taking any steps to that end, to await the anticipated settlement of the Mosul boundary question.

⁴⁰ For correspondence concerning dissatisfaction of the United States with the decision relating to the Iraq mandate, see *Foreign Relations*, 1925, vol. II, pp. 230 ff.

⁴¹ *Foreign Relations*, 1925, vol. II, p. 231.

⁴² *Ibid.*, 1924, vol. II, p. 212.

⁴³ Not printed.

Agreement with respect to this latter question having apparently resulted from the decision of the Council of the League of Nations of March 11, 1926,⁴⁴ and from the Turkish-British-Iraqi Treaty of June 5, 1926,⁴⁵ the Department desires you again to take up with the British Foreign Office the question of the negotiation of the proposed convention regarding American rights in Iraq. To facilitate a consideration of this matter and as a basis for discussion, there are enclosed three copies of a "Draft Convention between the United States and Great Britain—Rights in Iraq," one copy of which should be left at the Foreign Office together with an *aide memoire* recapitulating such verbal representations as may be made on the occasion of its presentation.

In explanation of the enclosed draft of convention the Department sets forth the following observations:

An endeavor has been made to follow as closely as possible the form of the preamble of the British-American convention of December 3, 1924, relating to Rights in Palestine (Treaty Series No. 728). Changes (notably the incorporation of the Decision of the Council of the League of Nations of September 27, 1924⁴⁶) have, however, been necessitated by the special situation of Iraq.

Article I of the attached draft differs from Article I of the Palestine Mandate convention in referring to "the Mandate exercised by His Britannic Majesty over Iraq" rather than to "the administration of Iraq".

Articles 2, 3, 4, 5 and 6 correspond with Articles bearing those numbers in the Palestine Mandate convention.

The difference between the wording of Article 7 of the attached draft of convention and that of the Palestine Mandate convention is necessitated by the penultimate paragraph of the above mentioned Decision of September 27, 1924. In composition, this article, as drafted, is a combination of the said penultimate paragraph of the Decision and of Article 8 of the Palestine Mandate. (See page 3 of Department's written instruction No. 627 of April 20, 1925).

With respect to Article 8 of the attached draft of convention, reference is made to pages 4-6 of the above mentioned instruction No. 627, as well as to the statements in the draft note set forth commencing on page 8 of that instruction, with reference to economic rights to which the United States is believed to be entitled in territory detached from Turkey and with respect to which the British Government has given specific assurances to which reference is made in that draft note.

⁴⁴ League of Nations, *Official Journal*, 7th year, No. 4, p. 502.

⁴⁵ League of Nations Treaty Series, vol. LXIV, p. 379.

⁴⁶ For text of the decision, see League of Nations, *Official Journal*, 5th year, No. 10, p. 1348.

Article 8 will be seen to follow in general the provisions of Article 11 of the Mandate for Syria and the Lebanon, (see Treaty Series No. 695,⁴⁷ page 5), and supplements the assurances set forth in Article 11 of the Anglo-Iraq Treaty of Alliance of October 10, 1922.⁴⁸ The content of the attached draft of Article 8 is considered to be substantially that of Article 11 of the Mandate for Syria and the Lebanon, the modifications made having been effected in consideration of the special status of Iraq. The Department considers, moreover, that the terms of the attached draft of Article 8 carry out the assurances given by the British Government in the correspondence mentioned in the Department's instruction No. 627 with respect to economic rights in mandated territory. (See also confidential print of the Department entitled "Mandate for Palestine", May 12, 1926, page 15, et seq.⁴⁹) It is also obvious and proper that economic rights of American nationals in Iraq should be assured on a basis similar to the basis embodied in the convention with France in respect to Syria and the Lebanon. Particular attention is called to the exceptional nature of the economic provisions of the Palestine convention, with respect to which the position of the Government of the United States has been fully reserved.

Articles 9 and 10 correspond to Articles 7 and 8 of the convention concerning rights in Palestine.

The Department will be glad to learn the results of the Embassy's discussion of this question with the Foreign Office.

I am [etc.]

FRANK B. KELLOGG

[Enclosure]

Draft Convention Between the United States and Great Britain

Whereas by the Treaty of Peace concluded with the Allied Powers,⁵⁰ Turkey renounces all her rights and titles over Iraq; and

Whereas Article 22 of the Covenant of the League of Nations⁵¹ in the Treaty of Versailles provides that, in the case of certain territories which, as a consequence of the late war, ceased to be under the sovereignty of the States which formerly governed them, mandates should be issued, and that the terms of the mandate should be explicitly defined in each case by the Council of the League; and

Whereas the Principal Allied Powers have agreed to entrust the mandate for Iraq to His Britannic Majesty; and

Whereas, with a view to the application to Iraq of the principles of Article 22 of the Covenant, the Council of the League of Nations

⁴⁷ Treaty with France, signed Apr. 4, 1924, *Foreign Relations*, 1924, vol. 1, p. 741.

⁴⁸ League of Nations Treaty Series, vol. xxxv, p. 13.

⁴⁹ See Department of State, Near Eastern Series No. 1, *Mandate for Palestine* (Washington, Government Printing Office, 1931), p. 27.

⁵⁰ Treaty of Peace signed at Lausanne, July 24, 1923; League of Nations Treaty Series, vol. xxviii, p. 11.

⁵¹ Malloy, *Treaties*, 1910-1923, vol. iii, pp. 3336, 3342.

on September 27, 1924, adopted a Decision defining the terms of the said Mandate, as follows:

(Here quote Decision); and

Whereas, as set forth in the Schedule hereto, the British Government has concluded a new treaty with Iraq dated January 13, 1926, and has submitted the text thereof under covering letter dated March 2, 1926, to the Council of the League of Nations⁵² which on March 11, 1926, approved the terms of such letter; and

Whereas the United States of America, by participating in the war against Germany, contributed to her defeat and the defeat of her Allies, and to the renunciation of the rights and titles of her Allies in the territory transferred by them but has not ratified the Covenant of the League of Nations embodied in the Treaty of Versailles; and

Whereas the Government of the United States and the Government of His Britannic Majesty desire to reach a definite understanding with respect to the rights of the two Governments and their respective nationals in Iraq:

The President of the United States of America and His Britannic Majesty have decided to conclude a convention to this effect, and have named as their plenipotentiaries:

The President of the United States:

.....;

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the seas, Emperor of India:

.....:

who, after having communicated to each other their respective full powers, found in good and due form have agreed as follows:

ARTICLE I

Subject to the provisions of the present Convention, the United States consents to the mandate exercised by His Britannic Majesty over Iraq as set forth in the said Decision of the Council of the League of Nations and extended by the Anglo-Iraq Treaty of January 13, 1926, and Resolution of the Council of March 11, 1926, hereinbefore mentioned.

ARTICLE II

The United States and its nationals shall have and enjoy all the rights and benefits secured under the terms of the mandate to members of the League of Nations and their nationals, notwithstanding the fact that the United States is not a member of the League of Nations.

⁵² For texts of treaty and covering letter, see League of Nations, *Official Journal*, 7th year, No. 4, p. 550, annexes 845b and 845a. The treaty is also printed in Great Britain, Cmd. 2587, *'Iraq, Treaty with King Feisal*, etc.

ARTICLE III

Vested American property rights in the mandated territory shall be respected and in no way impaired.

ARTICLE IV

A duplicate of the annual report to be made by the Mandatory under the terms of the mandate shall be furnished to the United States.

ARTICLE V

Subject to the provisions of any local laws for the maintenance of public order and public morals, the nationals of the United States will be permitted freely to establish and maintain educational, philanthropic and religious institutions in the mandated territory, to receive voluntary applicants and to teach in the English language.

ARTICLE VI

The extradition treaties and conventions which are, or may be, in force between the United States and Great Britain, and the provisions of any treaties which are, or may be, in force between the two countries which relate to extradition or consular rights shall apply to the mandated territory.

ARTICLE VII

With reference to the penultimate paragraph of the above mentioned Decision of the Council of the League of Nations wherein it is decided "that the privileges and immunities, including the benefits of consular jurisdiction and protection formerly enjoyed by capitulation or usage in the Ottoman Empire, will not be required for the protection of foreigners in Iraq so long as the Treaty of Alliance is in force," it is agreed between the High Contracting Parties that, unless the United States, whose nationals enjoyed the aforementioned privileges and immunities on the 1st August, 1914, shall have previously renounced the right to their re-establishment or shall have agreed to their non-application for a further specified period, these privileges and immunities shall, at the expiration of the said Treaty of Alliance as extended by the Anglo-Iraq Treaty of January 13, 1926, or of the mandate, whichever may first expire, be immediately re-established in their entirety or with such modifications as may have been agreed upon between the Powers concerned.

ARTICLE VIII

The mandatory shall see that there is no discrimination in Iraq against the nationals of the United States (including societies, associations, and companies incorporated under the laws of the United

States) as compared with British nationals or those of any foreign State in matters concerning taxation, commerce or navigation, the exercise of industries or professions, the granting of concessions, or in the treatment of merchant vessels or civil aircraft. Nor shall there be any discrimination in Iraq against goods originating in or destined for the United States. There shall be freedom of transit under equitable conditions across Iraq territory. Special customs arrangements, however, may be concluded with an adjoining country on grounds of contiguity.

Concessions in the nature of a general monopoly shall not be granted. This clause shall in no way limit the creating of monopolies of a purely fiscal character in the interest of Iraq, and with a view to assuring to the territory the fiscal resources which would appear best adapted to the local needs, or, in certain cases, with a view to developing the natural resources either directly by the State or through an organization under its control, provided that this does not involve either directly or indirectly the creation of a monopoly of the natural resources in favor of the Mandatory or its nationals, nor involve any preferential treatment which would be incompatible with the economic, commercial and industrial equality guaranteed above.

ARTICLE IX

Nothing contained in the present convention shall be affected by any modification which may be made in the terms of the mandate unless such modification shall have been assented to by the United States.

ARTICLE X

The present Convention shall be ratified in accordance with the respective constitutional methods of the High Contracting Parties. The ratifications shall be exchanged in London as soon as practicable. The present Convention shall take effect on the date of the exchange of ratifications.

In witness whereof, the undersigned have signed the present Convention, and have hereunto affixed their seals.

Done in duplicate at London this day of, 1926.

(SEAL)

(SEAL)

SCHEDULE

of Documents referred to in the foregoing Draft Convention and annexed thereto.

1. Anglo-Iraq Treaty of Alliance of October 10, 1922; Protocol of April 30, 1923; and subsidiary Agreements (British Officials, Military, Judicial, and Financial) of March 25, 1924.

2. Anglo-Iraq Treaty of January 13, 1926.
3. Letter from His Britannic Majesty's Government to the Secretary-General of the League of Nations, March 2, 1926 (omitting Enclosure No. 2); and Resolution * adopted on March 11, 1926, by the Council of the League of Nations with respect thereto.

890g.01/184

Mr. Allen W. Dulles, Foreign Service Officer, to the Secretary of State

WASHINGTON, September 1, 1926.

SIR: I have the honor to report that, pursuant to the Department's telegraphic instruction No. 119 of July 13, 1926,⁵³ I prolonged my stay in London for a sufficient time to cooperate with the Embassy in presenting to the Foreign Office the proposed draft convention for the regularization of our interests in Iraq. On July 21, immediately after the receipt of the Department's instructions, Mr. Sterling⁵⁴ informed the Foreign Office and arranged for an interview with Foreign Office and Colonial Office officials which took place on Monday, July 26. Meanwhile, there was prepared a draft memorandum in explanation of the proposed draft convention on the basis of the Department's written instruction No. 601 of July 13, 1926, to the Embassy in London. A copy of this memorandum is attached. (Enclosure No. 1.⁵⁵).

It seemed wise in preparing this memorandum to avoid any detailed exposition of the reasons for suggesting the various articles of the proposed draft convention and to restrict our written explanation to an indication of the precedents on which the provisions of the draft were based. The detailed explanation of the Department's draft was thus reserved for our oral conversations at the Foreign Office.

On July 26, Mr. Sterling and I conferred at the Foreign Office with Mr. Osborne, Mr. Thomas Spring-Rice, and a representative of the Colonial Office and presented the draft convention as communicated by the Department and the draft memorandum in explanation thereof. The representatives of the Foreign Office said that of course they would not be in a position to discuss the draft in any detail until they had given it thorough study. After reading it over, however, they made certain suggestions which were communicated to the De-

* Resolution No. 1, Page 8, Cmd. 2624, Miscellaneous No. 3 (1926). [Footnote in the original.]

⁵³ Not printed.

⁵⁴ Frederick A. Sterling, Counselor of Embassy in Great Britain.

partment in the Embassy's telegram No. 172 of July 26.⁵⁵ These suggestions as summarized by telegraph were as follows:

"One. Both from our own point of view and that of British Government they feel it is important to bring Iraq into the treaty, possibly as one of the high contracting parties. This would afford us a double safeguard and would help to meet the susceptibilities of Iraq (in this connection see form of British Iraq-Turkish Treaty on Mosul boundary).

"Two. Article six. British Government is not legally in a position to extend its extradition treaties to Iraq. They suggest that this point might be covered by Iraq undertaking to conclude an extradition agreement with us.

"Three. Article seven. The question of revival of capitulations is one that particularly arouses the sensibilities of Iraq. They inquire tentatively whether we would be satisfied with an undertaking that capitulations would be revived in our favor if they were so revived for any other power.

"Four. Article eight. It was indicated that there would be no difficulty in giving us full assurances against any form of discrimination in favor of the mandatory or any other power and in meeting our views regarding the open door but that difficulty of defining exactly what constitutes a monopoly would make it hard for them to accept Article eight in its present form. They will give this matter careful study with a view to suggesting assurances they are prepared to give.

"Five. It was indicated that Iraq authorities object to the use of term 'mandate' and that it might be desirable to find some other phrase to convey the idea of the form of administrative control exercised by Great Britain in Iraq."

We informed the Foreign Office that we would be glad to bring these points to the attention of the Department but we could not of course give any assurance that we would have a reply prior to my departure for the United States on the 31st. We pointed out that in any event it might be useful to discuss our draft convention and any proposals they might wish to make, so that the Department could have the benefit of detailed information on the subject upon my return to Washington. The Foreign Office entirely concurred in the desirability of this procedure. They pointed out that of course they could not finally commit their Government, since it would be necessary to consult with the authorities in Baghdad before any treaty was finally negotiated. They would, however, be glad to give us the benefit of their views and of those of the Colonial Office. I said that as far as I was concerned I of course had no authority whatever to commit the Department of State and that whatever comment or suggestions I might make would be subject to the review of the Department upon my return.

Under date of July 28, Mr. Thomas Spring-Rice sent me, under covering letter, a counter-draft of the convention. (Enclosure No.

⁵⁵ Not printed.

2⁵⁶). After studying this draft thoroughly with Mr. Sterling, we made an appointment for a further conference which took place at the Foreign Office on July 30. At this conference there were present Sir John Shuckburgh, Chief of the Middle Eastern Division of the Colonial Office, two other officials of the Colonial Office, Mr. Malkin of the Legal Section of the British Foreign Office, Mr. Thomas Spring-Rice, Mr. Sterling and myself. We immediately proceeded to the consideration, article by article, of the Foreign Office draft. I said that while I had no authority to accept any of the alternative texts suggested by the Foreign Office, the inclusion of both Great Britain and Iraq as Contracting Parties appeared to me to have certain advantages. In fact, as I pointed out, we had suggested the possibility of this procedure in the note addressed by the Embassy to the Foreign Office in accordance with the Department's instruction No. 627 of April 20, 1925. I said that I should be glad to explain in Washington the point of view of the Foreign Office in suggesting this formula; namely, that it was important to meet the susceptibilities of the Iraq Government, which was very directly concerned; that many of the assurances we desired could not be obtained without the cooperation of the Iraq authorities and, further, that from the American point of view our interests would be better protected if we had the joint assurances of both the British and the Iraq authorities. The British Foreign Office said that they felt that there should be no difficulty in arranging for the negotiation of the convention in London since the Iraq Government was represented there by Jaffar Pasha, who could act as Iraq plenipotentiary.

As the Foreign Office accepted in the main our form of preamble and the idea of a schedule to set forth the important documents which were not to be quoted in the preamble, there was no detailed discussion of this part of the Treaty. One or two slight verbal changes which we suggested were accepted, particularly the change of the word "citizens" to "nationals."

With respect to Article 1, I pointed out that our other mandate treaties had used the word "consents" rather than the words "agrees to recognize," et cetera, in describing our attitude towards the mandate or the special régime set up in the mandated territory. I said that there had been some previous correspondence on this point and that the matter was fundamental from our point of view. We maintained the position that our acquiescence was essential to the formulation of the mandatory arrangements in view of our relation to the common victory.

No dissent was expressed to our position in this matter. The only question which was raised was as to the form in which this position could be set forth without irritating the sensibilities of the Iraq

⁵⁶ Not printed.

authorities. The two alternative formulae which were discussed are set forth in the second British counter-draft which was sent me by Mr. Spring-Rice under date of July 30 (Enclosure No. 3⁵⁷). Of the two texts of Article 1, I personally prefer that quoted in the right-hand column. Further, this draft is rather more satisfactory to the Foreign Office, particularly to their Legal Section. The draft on the left-hand side of the page seemed to be more pleasing to one of the Colonial Office officials, who expressed apprehension of the attitude of the Iraqi in this matter. Sir John Shuckburgh, however, did not seem concerned and was agreeable to either draft.

In Article 2 only minor textual changes were made. No changes were suggested with respect to Articles 3, 4 and 5.

With respect to Article 6, the British authorities pointed out that they were not legally in a position to extend their extradition treaties to Iraq and that the best they could do would be to arrange for the negotiation of a treaty between the United States and Iraq. I raised no particular objection to this, as the point seemed to me to be really a minor one, as the escape of extraditable persons to Iraq seems very unlikely. Further, as they explained to me, the laws published in Iraq would probably permit of extradition from Iraq without a treaty provision to this effect, and they left with me a copy of the Iraq extradition law. (Enclosure No. 4⁵⁸).

Article 7, which relates to the suspension of the Capitulations, was the subject of a detailed discussion. It finally seemed best to follow as closely as possible the provisions in the corresponding articles of the Palestine and Syrian Mandate and to state that during the continuance of the special relations between Great Britain and Iraq the benefits of the Capitulations should not be applicable in Iraq. With regard to the second paragraph of Article 7, and in commenting upon the corresponding paragraph of the American draft, it was pointed out to us that the question of the revival of the Capitulations would be like a red flag to a bull as far as Iraq were concerned; they were particularly susceptible on this point, and we would only prejudice our own interests in trying to force them to accept a provision of the character suggested in the American draft. Further, as they pointed out, an undertaking of this character on the part of the British Government alone would not be of any great value, since the suggested reestablishment of the Capitulations applied to a period after the termination of the special relations between Great Britain and Iraq when Great Britain would not be in control of the situation in Iraq. Further, the British Government could not undertake the obligation not to withdraw from Iraq until the Iraqi had promised to give back the Capitulations to the United States. They felt, how-

⁵⁷ *Infra*.

⁵⁸ Not printed.

ever, that the provision suggested in their draft treaty would assure us the benefit of most-favored-nation treatment in judicial matters and would satisfactorily protect our position. Thus, if any State in the future secured capitulations in Iraq we would have them also.

We called the attention of the Foreign and Colonial Office officials to the fact that their draft omitted any mention of our Article 8, which related to equality in the granting of concessions, et cetera, and contained a provision against the granting of monopolistic concessions. They explained this omission in the following manner. In so far as equality of treatment was concerned there was no difficulty whatever. Their agreements with the Iraqi and with the League of Nations assured equality of treatment to all members of the League in commercial and economic matters. Under our treaty we would have the benefit of this equality without a special article, and they felt that to single out this one subject from the annexed documents and incorporate it in the treaty was neither logical nor necessary. They stated that they had always considered that their undertaking to grant full equality of treatment in matters of taxation, commerce and navigation, the exercise of industries or professions, et cetera, (see Article 11 of the Anglo-Iraq Treaty of Alliance) related to the granting of concessions, which was the exercise of an industry. I suggested that while I was in no sense authorized to discuss the omission of Article 8 as proposed in the American draft, I should be glad to know whether they would be inclined to give us the assurances contained in this proposed article by an exchange of notes in the event that the Department would deem such a method satisfactory. In reply they indicated that in so far as the assurance of absolute equality of treatment with any other Power was concerned there would probably be no objection to putting this in an exchange of notes. They felt some hesitation, however, about the agreement as to monopolies. Monopolies, they pointed out, were very difficult to define; no one could say quite what a monopoly was; and they felt that any statement on this subject would be more or less meaningless, particularly as their notes would not bind the Iraqi in any respect. I undertook to report the British views on this point.

It should be noted that throughout the entire British counter-draft the word "mandate" has been replaced by the phrase "special relations existing between His Britannic Majesty and His Majesty the King of Iraq."

Subsequent to this conference with the Foreign Office, I received on July 31, just before leaving London for the United States, the revised British draft which incorporated the changes which had been discussed the previous afternoon as indicated above. As pointed out in Mr. Thomas Spring-Rice's letter to me of July 30,^{58a} it was

^{58a} Not printed.

understood that the draft was purely tentative on both sides; that in the case of the British it would have to be submitted to higher authority in the Foreign Office and the consent of the Iraq Government would have to be secured. I of course made it clear throughout that only the Department could decide as to the definite proposals which we would make.

During the course of the discussions I referred to our deep interest in the question of archaeological research in Mesopotamia, and in order to assure me that the conditions accorded to foreign scholars are adequate they left with me the text of the Antiquities Law of 1924, which is appended. (Enclosure No. 5⁵⁹).

I have [etc.]

A. W. DULLES

[Enclosure]

*British Draft Convention Between the United States, Great Britain
and Iraq*

(As revised in consultation with Mr. Dulles on July 30, 1926)

Whereas in virtue of the Treaty of Peace concluded with the Allied Powers and the Treaty between Great Britain and Iraq and Turkey, signed at Angora on the 5th of June, 1926, Turkey has renounced all rights and titles over the territory of Iraq; and

Whereas Article 22 of the Covenant of the League of Nations in the Treaty of Versailles provides that in the case of certain territories which, as a consequence of the late war, ceased to be under the sovereignty of the States which formerly governed them, mandates should be issued, and that the terms of the mandate should be explicitly defined in each case by the Council of the League of Nations; and

Whereas on the 27th day of September, 1924, the Council of the League of Nations decided as follows:—(here insert Council's decision); and

Whereas the Treaty of Alliance referred to in the aforesaid decision of the Council of the League of Nations, and set forth in the first schedule hereto, entered into force on the 19th day of December, 1924; and

Whereas, with the object of extending the duration of the aforesaid Treaty of Alliance, a new Treaty between His Britannic Majesty and His Majesty the King of Iraq was signed at Baghdad on the 13th day of January, 1926 as set forth in the second Schedule hereto, and hereinafter referred to as the Treaty of 1926; and

Whereas on the 2nd day of March, 1926 a letter in the terms set forth in the third schedule hereto was addressed by His Britannic Majesty's Government to the League of Nations; and

⁵⁹ Not printed.

Whereas on the 11th day of March 1926 the Council of the League of Nations recorded a decision in the terms set forth in the fourth schedule hereto; and

Whereas the Treaty of 1926 entered into force on the 30th day of March, 1926; and

Whereas the United States of America, by participating in the war against Germany, contributed to her defeat and the defeat of her Allies, and to the renunciation of the rights and titles of her Allies in the territory transferred by them but has not ratified the Covenant of the League of Nations embodied in the Treaty of Versailles; and

Whereas the Government of the United States and the Government of His Britannic Majesty and the Government of His Majesty the King of Iraq desire to reach a definite understanding with respect to the rights of the Government of the United States and of its nationals in Iraq; The President of the United States of America of the one part and His Britannic Majesty and His Majesty the King of Iraq of the other part have decided to conclude a Convention to this effect and have named as their plenipotentiaries;—

The President of the United States of America:

.....

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India;

.....

His Majesty the King of Iraq:

.....

who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:—

ARTICLE 1

or

ARTICLE 1

Subject to the provisions of the present convention, the United States recognises and consents to the special relations existing between His Britannic Majesty and His Majesty the King of Iraq as defined in the decisions of the Council of the League of Nations of the 27th day of September, 1924, and of the 11th day of March, 1926, the Treaty of Alliance (as defined in the said decision of September 27th, 1924), and the Treaty of 1926.

Subject to the provisions of the present convention, the United States consents to the régime established in virtue of the decisions of the Council of the League of Nations of the 27th day of September, 1924, and of the 11th day of March, 1926, the Treaty of Alliance (as defined in the said decision of September 27th, 1924), and the Treaty of 1926, and recognises the special relations existing between His Britannic Majesty and His Majesty the King of Iraq as defined in those instruments.

ARTICLE 2

The United States and its nationals shall have and enjoy all the rights and benefits secured under the terms of the aforesaid decisions and treaties to members of the League of Nations and their nationals, notwithstanding the fact that the United States is not a member of the League of Nations.

ARTICLE 3

Vested American property rights in Iraq shall be respected and in no way impaired.

ARTICLE 4

A duplicate of the annual report to be made in accordance with the terms of the decision of the Council of the League of Nations of the 27th day of September, 1924, shall be furnished to the United States.

ARTICLE 5

Subject to the provisions of any local laws for the maintenance of public order and public morals, the nationals of the United States will be permitted freely to establish and maintain educational, philanthropic and religious institutions in Iraq, to receive voluntary applicants and to teach in the English language.

ARTICLE 6

Negotiations shall be entered into as soon as possible for the purpose of concluding an Extradition Treaty between the United States and Iraq in accordance with the usages prevailing among friendly States.

ARTICLE 7

The United States takes note of the penultimate paragraph of the decision of the Council of the League of Nations of the 27th day of September, 1924, and agrees that the privileges and immunities, including the benefits of consular jurisdiction and protection, formerly enjoyed by capitulation or usage in the Ottoman Empire, shall not be applicable in Iraq so long as the special relations existing between His Britannic Majesty and His Majesty the King of Iraq, as defined in Article 1 above, remain in force.

The United States and His Majesty the King of Iraq agree that on the expiration of the other provisions of the present convention in accordance with Article 9, nationals of the United States shall be entitled in Iraq to all such benefits, privileges or immunities

in matters of jurisdiction and protection as may, by treaty or otherwise, be conferred upon the nationals of any other State, and that the régime applicable in judicial matters to nationals of the United States shall be that applicable to the nationals of the most favoured nation.

ARTICLE 8

Nothing contained in the present convention shall be affected by any modification in the special relations existing between His Britannic Majesty and His Majesty the King of Iraq, as defined in Article 1, (other than the termination of the said relations as contemplated in Article 9), unless such modification shall have been assented to by the United States.

ARTICLE 9

The present convention shall be ratified in accordance with the respective constitutional methods of the High Contracting Parties. The ratifications shall be exchanged in London as soon as practicable. The present convention shall take effect on the date of the exchange of ratifications, and shall, subject to the provisions of the second paragraph of Article 7, cease to have effect on the termination of the special relations existing between His Britannic Majesty and His Majesty the King of Iraq in accordance with the Treaty of Alliance and the Treaty of 1926.

In witness whereof, the undersigned have signed the present convention, and have thereunto affixed their seals.

Done in triplicate at, this day of, 192 . . .

SCHEDULE 1

Cmd. 2370. Anglo-Iraq Treaty of Alliance of October 10, 1922; Protocol of April 30, 1923; and subsidiary Agreements (British Officials, Military, Judicial, and Financial) of March 25, 1924.

SCHEDULE 2

Cmd. 2587. Anglo-Iraq Treaty of January 13, 1926.

SCHEDULE 3

Cmd. 2624. No. 1. Letter from His Britannic Majesty's Government to the Secretary General of the League of Nations, March 2, 1926.

SCHEDULE 4

Cmd. 2624. page 8. Decision of the Council of the League of Nations, March 11, 1926.

890g.01/180

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

No. 740

WASHINGTON, November 12, 1926.

SIR: The Department refers to your telegram No. 172 of July 26, 1926,⁶⁰ reporting briefly with respect to the conversations held in London between Messrs. Sterling and Dulles, representing the Embassy, and officials of the British Foreign and Colonial Offices in connection with the proposed negotiation of a convention relative to Iraq. A detailed report of these conversations has been made to the Department by Mr. Dulles in the form of an official despatch dated September 1, 1926, a copy of which is enclosed for the information of the Embassy.^{60a}

The Department has given careful consideration to the informal counter proposals of the British Government, and, with certain exceptions which will be discussed below, it finds them acceptable. As these counter proposals are given concrete form in the British counter-draft of the proposed convention (see letter dated July 30, 1926, from Mr. Thomas Spring-Rice to Mr. Dulles, enclosure No. 3 to his despatch of September 1, 1926⁶¹) they will be discussed in the order in which they appear in that document.

The form of preamble in the British counter-draft follows in general the form suggested in the Department's draft and is acceptable. In particular, the Department concurs in the proposal, incorporated in paragraph 10 of the preamble of the British counter-draft, that Iraq should be included as one of the contracting parties to the convention.

The Department finds preferable the alternate form of Article 1 of the British counter-draft of the convention which appears on the right hand side of page 3 of that document.

The minor modifications in phraseology which appear in Articles 2 to 5, inclusive, of the British counter-draft give rise to no objection on the part of this Government.

In view of the statement of the British authorities to the effect that they were not legally in a position to extend their extradition treaties to Iraq and having in mind "The Extradition of Offenders Law 1923" (see enclosure No. 4,⁶¹ Mr. Dulles' report of September 1, 1926) put into effect by decree of the King of Iraq, the Department is disposed to accept Article 6 of the British counter-draft.

⁶⁰ For substance, quoted in report of Mr. Allen W. Dulles to the Secretary of State, Sept. 1, 1926, see *ante*, p. 788.

^{60a} *Ante*, p. 787.

⁶¹ Not printed.

With respect to Articles 7 and 8 of the Department's draft of the proposed convention, the Department desires to make clear to the Embassy that its object in suggesting these articles was to obtain from the British Government certain assurances to clarify or supplement those contained in the documents recited in or annexed to the draft convention. The reasons which prompted this action are set forth clearly on pages 3, 4 and 5 of the Department's written instruction No. 627 of April 20, 1925.

With respect to the text of Article 7 as suggested in the Department's draft, after a careful consideration of the British counter proposal, and following the precedent set in the negotiation of the Palestine and Syrian mandate conventions, the Department feels that it is unnecessary to include Article 7 either in the form originally proposed by this Government or in the form suggested in the British counter-draft. Effect is given to the essential provision of this article, i. e. that contained in the first paragraph thereof, by the recital, in the preamble of the draft convention, of the Decision of September 27, 1924, of the Council of the League of Nations, and by the incorporation of the Decision, by reference, in Article 1 of the British counter-draft. The second paragraph of the Department's draft of Article 7 was, as already indicated, intended to supplement or clarify the first paragraph. In view of the special situation in Iraq as it has developed since the conclusion of the earlier "A" mandate treaties, this Government is disposed to not press for its inclusion in the convention. The Department proposes, therefore, the omission *in toto* of Article 7. Should this proposal be accepted by the British and Iraq Governments the Department would wish the Embassy to point out to the plenipotentiaries of those Governments that it is the understanding of this Government that, when the convention comes into effect and during the period of the "special relations" defined in the British counter-draft of the convention, there will be a suspension of the capitulatory régime in Iraq in so far as the rights of this Government and its nationals are concerned and that such rights will be exercised in conformity with the Decision of the Council of the League of Nations dated September 27, 1924.

The Department perceives no objection in principle to the British counter proposal to omit Article 8 of the Department's draft convention, providing written assurances are furnished this Government that the undertaking to grant full equality of treatment in matters of taxation, commerce and navigation, the exercise of industries or professions, *et cetera* includes the granting of concessions. (In this connection, see Mr. Dulles' report of September 1, 1926, page 7). The following clause is suggested as appropriate for inclusion in

an exchange of notes on this point between the American plenipotentiary and the representatives of Great Britain and Iraq respectively:

"It is understood by the high contracting parties that the term 'industries' as employed in Article XI of the Anglo-Iraq Treaty of Alliance signed October 10, 1922, covers the granting and operation of concessions."

If such assurances are forthcoming, the Department is prepared further, in view of the special situation in Iraq, and without prejudice to the general position in the matter taken by the Government of the United States, which is expressly reserved, to withdraw its tentative suggestion with respect to the possible desirability of the inclusion in the proposed convention of the provisions relating to monopolies contained in the second paragraph of Article 8 of the Department's draft. Confidential. If satisfactory assurance is given on the above point, American interests would be entitled to suitable opportunity to compete in the event that the granting of any monopoly should be contemplated.

The minor modifications in phraseology suggested in Article 8 of the British counter-draft (Article 9 of the Department's draft), meet with the Department's approval.

The Department is prepared also to accept the text of Article 9 of the British counter-draft (Article 10 of the Department's draft), provided, however, (1) that the words "subject to the provisions of the second paragraph of Article 7" are deleted, their inclusion being unnecessary in view of the proposed omission of Article 7, and (2) that the British and Iraq Governments agree to the addition of a second and final paragraph reading as follows:

On the termination of the special relations established by this Convention and until an agreement shall have been reached in regard to the future relations of the United States and Iraq and the rights of the nationals of each country in the territories of the other, the nationals, vessels, goods and aircraft of the United States and all goods in transit across Iraq, originating in or destined for the United States, shall receive the most favored nation treatment.

The Department desires that an early occasion be found for renewing the discussion of this matter and that at that time the Department's views as expressed above be put before the appropriate authorities of the British Government. A new draft of the proposed convention embodying the changes thus suggested is enclosed.⁶³

I am [etc.]

FRANK B. KELLOGG

⁶³ Not printed.

S90g.01/186

The Chargé in Great Britain (Atherton) to the Secretary of State

No. 1598

LONDON, *January 21, 1927.*

[Received February 3.]

SIR: I have the honor to refer to the Department's Instruction No. 740, of November 12, 1926, in connection with the proposed negotiations of a convention relative to Iraq, and to forward for the Department's instructions and comment, copy of a Foreign Office Note, dated January 18, 1927, containing certain explanations and proposals connected with the counter-draft.

I have [etc.]

RAY ATHERTON

[Enclosure]

The Head of the Eastern Department of the British Foreign Office (Oliphant) to the American Chargé (Atherton)

No. (E 136/136/65)

LONDON, *18 January, 1927.*

DEAR ATHERTON: We have examined in consultation with the Colonial Office the State Department's counter-draft of November 12th⁶⁴ for a Convention between the United States, Great Britain and Iraq, and also the explanations and proposals connected with that counter-draft which were set forth in Sterling's letter of December 1st to me.⁶⁴

2. We are glad to find that so large a measure of agreement has now been reached. We must of course consult the Iraq Government as to the proposals made by the State Department, but it may save time if I let you know at once how these proposals strike us. You will of course realise that my observations are provisional, pending receipt of the remarks of the Iraq Government.

3. I will deal first with the points mentioned in Sterling's letter, and then with certain points which had previously been raised by the Iraq Government.

4. We agree to adopt the text which the State Department prefer for article 1, i. e. the formula which appeared on the right hand side of page 3 in our draft of July 30th.

5. We also agree, in view of the considerations set forth in paragraphs 6 and 7 of Sterling's letter of December 1st, that it is unnecessary to include article 7, either in the form originally proposed by your Government, or in the form suggested in the draft of July 30th; and we see no objection to the communication which the State Department wish you to make to the British and Iraq Plenipotentiaries about the position which will exist as regards the

⁶⁴ Not printed.

capitulatory regime when the Convention comes into effect, and during the period of the "special relations" defined in the draft of July 30th.

6. We note that the State Department agree to our proposal to omit that "no discrimination" article (No. 8) in the original draft, provided that written assurances are given to the United States Government that the undertaking to grant full equality of treatment in matters of taxation, etc., includes the granting of concessions; and we are ready to urge the Iraq Government to accept the formula suggested in paragraph 8 of Sterling's letter for an exchange of notes on this subject. We think, however, that in order to make the matter quite clear it would be better to say "the term 'exercise of industries'" instead of "the term 'industries'".

7. As regards article 9 of the draft of July 30th (which will now become article 8 owing to the omission of article 7 in that draft), it will of course be necessary to delete the words "subject to the provisions of the second paragraph of article 7". As regards the second and final paragraph of this article suggested in Sterling's letter, we feel that it would be very difficult for the Iraq Government to accept the text proposed by the State Department as it stands, for the following reasons. Under that text the United States would, without giving anything in return, obtain full most-favoured-nation treatment in Iraq until such time as a new treaty was concluded, and the Iraq Government will almost certainly feel that, this being so, there would be no particular inducement for the United States to conclude such a treaty, so that the condition of affairs produced by the draft might continue almost indefinitely. On the other hand we fully realise that the Government of the United States can reasonably expect that they should not be left without any treaty rights at all on the termination of the present treaty. In these circumstances it is necessary to find a solution which will provide a system which will be fair to both sides during the provisional period before the new treaty is concluded, and we suggest that this might be done by a provision on the following lines:—

"On the termination of the said special relations, negotiations shall be entered into between the United States and Iraq for the conclusion of a treaty in regard to their future relations and the rights of the nationals of each country in the territories of the other. Pending the conclusion of such an agreement the nationals, vessels, goods and aircraft of the United States and all goods in transit across Iraq, originating in or destined for the United States, shall receive in Iraq the most-favoured-nation treatment; provided that the benefit of this provision cannot be claimed in respect of any matter in regard to which the nationals, vessels, goods and aircraft of Iraq, and all goods in transit across the United States, originating in or destined for Iraq, do not receive in the United States the most-favoured-nation treatment".

We have followed your wording as closely as possible, but there is one point to which I should like to call attention. With the disappearance of the second paragraph of article 7, the position of United States citizens in judicial matters after the termination of the treaty will not be dealt with at all unless it is dealt with in the proposed new paragraph of article 8, and we assume therefore that the wording proposed by the State Department was intended to cover the judicial regime applicable to American citizens. It is not however quite clear to us that the actual wording does cover it, and we suggest that this point should receive consideration by the State Department.

8. I now turn to the points suggested by the Iraq Government. They have raised objection to the references in the Preamble and in articles 1 and 2 of the draft of July 30th to the decisions of the Council of the League of Nations relating to Iraq. We are presenting to them that these objections as a whole cannot be entertained; but we hope that the Government of the United States will be prepared to make certain minor modifications with a view to meeting, to some extent, the wishes of the Iraq Government. Firstly, it seems unnecessary to reproduce the full text of the League Council's resolutions dated March 11th, 1926, (at present included in Schedule 4 to the draft Convention), to which the Iraq Government take objection as it contains the phrase "mandatory regime", which the Iraq Government dislike. We therefore propose that paragraph 7 of the Preamble should read as follows: "Whereas on the 11th day of March 1926 the Council of the League of Nations recorded a resolution taking note of the Treaty of 1926: and". We would also like, if the State Department see no objection, to include in the Preamble, between paragraphs 9 and 10 of the present draft, a fresh paragraph as follows: "Whereas the United States of America recognizes Iraq as an independent State". A similar clause was included in the Preamble to the recent Anglo-Iraq-Turkish Treaty, copy of which I enclose herein. The conclusion of a treaty by the United States with Iraq of course involves such recognition, but an express statement to that effect would be popular in Iraq and would facilitate the acceptance of the Convention by the Iraq Assembly.

9. The Iraq Government have raised the question whether article 3 of the draft Convention might not be interpreted as prohibiting the local Government from expropriating American property for public purposes under normal expropriation laws of general application and providing for reasonable compensation. We propose to inform them that the United States has made no attempt to interpret in this manner similar articles in Conventions already concluded in regard to other territories in which the position of American citizens has had to be regularised; but that in order to avoid all possibility of misunderstanding, His Majesty's Government are prepared to

endeavour to obtain from the United States Government a formal assurance that such is not the intention of the article; and we very much hope that the State Department will be prepared to give such an assurance.

10. The Iraq Government want to omit article 4 altogether, on the ground that the annual report to the League is no affair of theirs. We are explaining to them that this is impossible, as it is only right that the United States should be kept informed by means of the annual report, in the same way as members of the League of Nations, how the affairs of Iraq are being conducted. We appreciate, however, that there is some justification for the Iraq Government's reluctance to accept that article in its present form; and we therefore suggest for the consideration of the State Department that it should be replaced by the following revised wording: "His Britannic Majesty's Government undertake to furnish to the United States a duplicate of the annual report to be made in accordance with the terms of the decision of the Council of the League of Nations of the 27th day of September, 1924."

11. Finally we propose that the last sentence of the whole draft Convention should read as follows:—"Done in triplicate in English and Arabic, of which in case of divergence the English text shall prevail, at this day of, 192 . . ." There will be only three schedules instead of four, if our proposal concerning paragraph 7 of the Preamble is accepted.

12. I enclose for convenience a redraft of the Convention,⁶⁵ embodying the various amendments proposed up to date.

Yours v. sincerely,

LANCELOT OLIPHANT

890g.01/186

*The Acting Secretary of State to the Ambassador in Great Britain
(Houghton)*

No. 848

WASHINGTON, March 1, 1927.

SIR: The Department has received and given careful consideration to your despatch No. 1598 of January 21, 1927 enclosing a copy of a Foreign Office note dated January 18, 1927 containing certain explanations and proposals connected with the redraft of the proposed convention relative to Iraq which accompanied the Department's instruction No. 740 of November 12, 1926. The Department desires that you communicate with the Foreign Office in the following sense regarding the various paragraphs of its note with respect to which it would appear to be necessary or desirable for the Department to submit further observations or comment:

⁶⁵ Not printed.

Paragraph 2. The Department, in its turn, is pleased that so large a measure of agreement has been reached with respect to the form and provisions of the proposed convention. It appreciates that it will be necessary for the Foreign Office to consult with the Iraq Government before its proposals may be considered as final.

Paragraph 6. The Department concurs in the proposal to substitute the term "exercise of industries" for the term "industries" in the formula suggested in paragraph 8 of Mr. Sterling's letter to the Foreign Office (presumably the same formula as that contained in the first paragraph of page 4 of the Department's instruction of November 12, 1926) regarding the assurance desired by this Government that the undertaking to grant full equality of treatment in matters of taxation, commerce and navigation, the exercise of industries or professions, et cetera includes the granting of concessions.

Paragraph 7. The Department accepts the counter-draft of the last paragraph of Article 8 of the proposed convention, providing the following clause is added thereto:

"it being understood that there is excepted the treatment which is accorded by the United States to the commerce of Cuba under the provisions of the Commercial Convention concluded by the United States and Cuba on December 11, 1902,⁶⁶ or any other commercial convention which hereafter may be concluded by the United States with Cuba, or to the commerce of the United States with any of its dependencies and the Panama Canal Zone under existing or future laws."

You should point out to the Foreign Office that a clause to the foregoing effect is included in the Treaty of Friendship, Commerce, and Consular Rights concluded by the United States with Germany December 8, 1923,⁶⁷ and in similar treaties concluded since that date by the United States with Hungary, Esthonia, and Salvador.

It should be added in this connection that the Department understands that the position of American nationals in judicial matters after the termination of the special relations existing between Great Britain and Iraq as defined in the convention is adequately guarded by that part of Article 8 which provides that "the nationals . . . of the United States . . . shall receive in Iraq the most-favored-nation treatment."

Paragraph 8. The proposed modifications in the phraseology of paragraph 7 of the Preamble give rise to no objection on the part of this Government.

The Department perceives no objection and agrees to include in the preamble, between paragraphs 9 and 10, the proposed statement of American recognition of Iraq as an independent state.

Paragraph 9. You may communicate to the Foreign Office the formal assurance of this Government that it does not interpret Article 3 of the draft convention as prohibiting the local government from expropriating American property for public purposes under normal expropriation laws of general application and the previous provision

⁶⁶ *Foreign Relations*, 1903, p. 375.

⁶⁷ *Ibid.*, 1923, vol. II, p. 29.

for just and reasonable compensation. You will note that the phraseology of the foregoing assurance is slightly different from that proposed in paragraph 9 of the Foreign Office note. You may mention in this connection that the Department believes the present phraseology more accurately describes the situation which it presumes the British Government envisages should expropriation proceedings be undertaken with respect to American property in Iraq for the public use or benefit.

Paragraph 10. The Department finds preferable and accepts the suggested redraft of Article 4 of the proposed convention.

Paragraph 11. The redraft of the last sentence of the convention is wholly acceptable to this Government. In view of this Government's acceptance of the proposed modification of paragraph 7 of the Preamble, there will, of course, be only three schedules to the convention.

You will note from the foregoing that the Department accepts the redraft of the proposed convention enclosed with the Foreign Office note of January 18, 1927, providing a single addition is made, i. e. that set forth above in the Department's comment with respect to paragraph 7 of the Foreign Office note. It would not appear necessary therefore to enclose with the present instruction a further redraft of the convention.

The Department desires that you furnish it with a copy of any communication which you may address to the Foreign Office embodying the observations and comments set forth above, also a copy of Mr. Sterling's letter to the Foreign Office referred to in paragraph 3 of the Foreign Office note of January 18, 1927. You will, of course, inform the Department fully regarding such further discussion of this matter as you may have with the appropriate authorities of the British Government.

I am [etc.]

JOSEPH C. GREW

890g.01/194

The Chargé in Great Britain (Atherton) to the Secretary of State

No. 2256

LONDON, November 8, 1927.

[Received November 17.]

SIR: I have the honor to refer to the Embassy's telegram No. 191 of August 28 [26], 3 p. m., 1927,⁶⁸ relating to the proposed Iraq Convention between the United States and Great Britain, and in this connection to forward a copy, in triplicate, of a Foreign Office note, dated November 7, 1927, with regard to certain modifications in the draft convention as enclosed therewith.

I have [etc.]

RAY ATHERTON

⁶⁸ Not printed.

[Enclosure]

*The Head of the Eastern Department of the British Foreign Office
(Oliphant) to the American Chargé (Atherton)*

No. E 4579/136/65

LONDON, November 7, 1927.

MY DEAR ATHERTON: In my letter of May 9th⁶⁹ I explained that the proposed convention between the United States, this country and Iraq had been submitted to the Iraq Government for their consideration and promised to communicate their views to you as soon as possible.

We have now received the observations of the Iraq Government and have reconsidered the original draft in the light of their suggestions. The enclosed re-draft, which for convenience of reference I will call the "revise of November 1st", is the result.^{69a} You will see that it does not differ materially from the original draft, and we hope that your Government will find no difficulty in agreeing to it.

Article 4 of the original draft, by which His Majesty's Government agreed to furnish to the United States Government a duplicate of the annual report on Iraq, has been omitted, since this obligation, being one which applies solely to the British Government, would be out of place in a tripartite convention of the present type. We propose however, if your Government concur, that this point should be dealt with by a formal exchange of notes, to take place simultaneously with the exchange of ratifications of the convention.

As you know, the question of the revision of the existing relations between this country and Iraq has recently come under consideration and negotiations on this subject are at present taking place. In our opinion, however, this need not affect or delay the conclusion of the proposed convention. Whatever may be the result of the present negotiations, the existing rights and privileges of foreigners in Iraq, which we are pledged to protect, will remain unimpaired. The international position is, therefore, not likely to be modified and you will see that in any case the rights of United States citizens, in the event of any modification taking place in the special relations between this country and Iraq, are fully protected by Article 6 of the enclosed draft.

The present draft has now been agreed to by the Iraq Government and, I think, fully meets all the points which your Government have raised at various times. In these circumstances we hope that further modification will not be necessary, and that it may prove possible to sign the convention and bring it into force in the near future.

Yours sincerely,

LANCELOT OLIPHANT

⁶⁹ Not printed.

^{69a} Not printed. This draft is the same, with slight verbal changes, as the convention signed Jan. 9, 1930; Department of State Treaty Series No. 835; 47 Stat. 1817.

890g.01/194

The Secretary of State to the Chargé in Great Britain (Atherton)

No. 1208

WASHINGTON, December 17, 1927.

SIR: The Department has received your despatch No. 2256 of November 8, 1927, transmitting a copy of a Foreign Office note dated November 7, 1927, with which was enclosed a redraft (described for convenience as the "revise of November 1st")^{69b} of the text of the proposed convention relative to Iraq approved by the Department in its instruction No. 848 of March 1, 1927.

You should inform the Foreign Office that the Department has given careful consideration to the revise in question and finds it acceptable except as specified in the following comment:

Article 4. The Department is of the opinion that it cannot properly accept this article as at present drafted. In the earlier drafts of the proposed treaty the wording of this article was identical with that used in the analogous articles of the American-British Palestine Mandate Convention and the American-French Syrian Mandate Convention. The draft now proposed differs therefrom by the addition of the clause "and to any general educational requirements prescribed by law in Iraq." It is felt that if this proposed modification were accepted a way would be opened whereby legislation of a nature calculated to defeat the essential purpose of the article might be enacted. The Department does not, of course, mean to imply that such is the intention of the Iraq Government or that in suggesting the addition of this clause it had any such objective in mind. It assumes that the legislation envisaged by the suggested clause would deal with certain curricular requirements which the Iraq Government might wish to see made applicable to all schools, both government and private, established in the country. To any reasonable requirements of this nature this Government would not, of course, wish to object, but the experience of its educational institutions in Near Eastern countries has been such as to warrant serious hesitation if confronted by a general and indeterminate limitation such as that now proposed for Iraq. The admirable records of these institutions and their constant willingness to cooperate with the local government authorities in all matters tending to promote the national and educational welfare of the peoples whom they serve should, it is thought, be a sufficient guarantee for the future in Iraq. In other words, this Government would approve, as it is certain American educational institutions would approve, any general educational requirements not of a restrictive nature such as, for example, requirements as to the teaching of Arabic or of Iraqi or Near Eastern history, but it is definitely of the opinion that, in order to assure to American schools in Iraq a development comparable to that so successfully achieved by similar institutions in neighboring Near Eastern countries, the

^{69b} Not printed.

school authorities should be left free to determine general questions of curricula and administrative policy. The Department desires therefore that the suggested additional clause of the revise of November 1st be omitted, and it suggests in lieu thereof that the Iraq Government accept the above statement of this Government's willingness to raise no objection to any reasonable curricular requirements which may be made by law generally applicable to all educational institutions in Iraq.

Article 6. In the revise of November 1st the descriptive phrase "as defined in Article 1," which in the earlier drafts followed the word "Iraq", is omitted. It is probable that in redrafting the article, which in its present form is otherwise wholly acceptable to this Government, this phrase was inadvertently omitted. The Department desires, therefore, that you suggest its reinclusion.

Article 7. Two minor errors of drafting appear to have been made in the revise of November 1st, i. e.

1) A period instead of what apparently should be a comma is placed at the end of the sixteenth line of the second paragraph. The following word should then begin with a lower instead of an upper case letter, and

2) In lines 24 and 25 of the same paragraph the words "Panama Zone" have been used in place of the words "Panama Canal Zone" used in the Department's instruction of March 1, 1927.

The Embassy should point out these two minor changes to the Foreign Office and suggest that they be corrected in accordance with the foregoing comment.

You will note that the Department accepts the revise of November 1st, provided the modifications in Articles 4, 6 and 7 proposed above are accepted by the British and Iraqi Governments. In so informing the Foreign Office you should add, in reply to paragraph three of its note of November 7, 1927, that the Department accepts its proposal to provide, through a formal exchange of notes, that this Government shall be furnished a duplicate of the annual report on Iraq.

You will, of course, furnish the Department with a copy of any communication which you may address to the Foreign Office in accordance with the foregoing instructions and inform it fully regarding such further discussion of the matter as you may have with the appropriate authorities of the British Government.⁷⁰

I am [etc.]

FRANK B. KELLOGG

⁷⁰ These negotiations led to the signing of a convention Jan. 9, 1930; Department of State Treaty Series No. 835; 47 Stat. 1817.

RETENTION BY THE UNITED STATES OF CAPITULATORY RIGHTS IN IRAQ PENDING CONCLUSION OF A TREATY

890g.01/188

The Ambassador in Great Britain (Houghton) to the Secretary of State

No. 1861

LONDON, May 11, 1927.

[Received May 23.]

SIR: I have the honor to refer to my despatch No. 1701, of March 14, 1927,⁷¹ relating to the re-draft of the proposed Iraq Convention,⁷² and, in this connection, to forward copy of an informal Foreign Office Note stating that this question is now under consideration by the Iraq Government and setting forth certain considerations regarding the status of American citizens pending the coming into force of the Convention after ratification.

At the time this question was discussed at the Foreign Office, Mr. Oliphant pointed out to a member of the Embassy staff that the original memorandum from the Colonial Office to His Majesty's Secretary of State for Foreign Affairs on this subject expressed the hope, on behalf of the British Authorities, that the Department of State, in the event of American citizens being implicated in disputes or legal proceedings, pending the coming into force of the proposed treaty, would accept this *status quo*. Mr. Oliphant, however, added that he hesitated to do more than inform the Embassy of the Colonial Office statement.

I have [etc.]

For the Ambassador:

F. A. STERLING

Counsellor of Embassy

[Enclosure]

The Head of the Eastern Department of the British Foreign Office (Oliphant) to the First Secretary of the American Embassy (Atherton)

No. E 1954/136/65. Private

LONDON, 9 May, 1927.

MY DEAR ATHERTON: At our talk to-day about the proposed convention between the United States, this country and Iraq, you asked for a written note on the subject. Let me then explain that this question is now under consideration by the Iraq Government, whose views we hope to receive at an early date. His Majesty's Government fully realize the importance of concluding the convention in the near future, and are trying to secure the consent of the Iraq Government without delay.

⁷¹ Not printed.

⁷² See *ante*, pp. 783 ff.

Some time must, however, elapse before the position of United States citizens in Iraq can be finally regulated, since the present state of uncertainty will not terminate with the signature of the convention, but only with its coming into force after exchange of ratifications. During recent months, there has been a considerable increase in the number of United States citizens resident in Iraq, and the High Commissioner in Iraq has drawn the attention of His Majesty's Government to certain difficulties which may arise in the interim period, prior to the entry into force of the convention, in the event of United States citizens being implicated in disputes or legal proceedings.

Under the laws of Iraq, with the operation of which His Majesty's Government have no power of interference, the Iraq police are obliged, for example, in the case of any disturbance of the peace, to arrest the offender and bring him to trial before an Iraq Criminal Court; and the only privilege which a "foreign" offender can claim is that of standing his trial before a British magistrate in accordance with the Anglo-Iraq Judicial Agreement of 1924.⁷³ Were a case unfortunately to arise in which a United States citizen was brought before the Iraq Courts, His Majesty's High Commissioner at Bagdad would have no power to stay the operations of the Iraq law, even at the request of the United States Consul, who might feel bound to claim the privileges of the Turkish capitulations on behalf of the offender; the British Government would have no treaty right to intervene; the Iraq Government would have no legal power to prevent the trial of the offender in the Iraq Courts, and the High Commissioner could not advise them to act illegally. A complete deadlock might thus arise.

My reason for explaining the present position thus frankly is not, of course, due to any desire to retard or interfere with the negotiations for the conclusion of a convention, nor because we know of any such case being likely to arise—we do not—but solely with a view to eliminating any possible future cause of misunderstanding.

Yours v. sincerely,

LANCELOT OLIPHANT

S90g.01/188

The Secretary of State to the Chargé in Great Britain (Sterling)

No. 981

WASHINGTON, June 1, 1927.

SIR: The Department acknowledges the receipt of your despatch No. 1861 of May 11, 1927 with which you enclose a copy of an informal Foreign Office note stating that the latest draft text of the proposed Iraq Convention is under consideration by the Iraq Government and

⁷³ Signed Mar. 25, 1924; Great Britain, Cmd. 2370, Treaty Series No. 17 (1925), p. 34.

communicating, at the request of the Colonial Office, certain considerations regarding the status of American nationals in Iraq in the event that they should become involved in disputes or legal proceedings during the period which would necessarily transpire between the date of signature of the proposed treaty and the date of its entry into force.

It is noted that Mr. Oliphant of the Foreign Office, in bringing these considerations informally to the Embassy's attention, added that he hesitated to do more than inform it of the Colonial Office statement. The Department concludes from this addition that the Foreign Office appreciates that the position of this Government with respect to the question of the status of its nationals in Iraq pending the entry into force of the proposed treaty cannot but be the same as that taken with respect to the same question as it arose in Palestine prior to the exchange of ratifications of the American British Palestine Mandate Convention of December 3, 1924.⁷⁴ In this latter connection particular reference may be made to Documents Nos. 6 and 29-32 of the Department's confidential publication entitled "Mandate for Palestine", Series C, No. 55, copies of which have been furnished the Embassy and the Foreign Office.⁷⁵

Briefly stated, the position which this Government must necessarily maintain with respect to this matter is that the American-Ottoman Treaty of 1830⁷⁶ and, in particular, the capitulatory rights enjoyed thereunder by the United States and its nationals are still in effect as regards that part of the former Ottoman Empire known as Iraq; that, owing to the American constitutional system, such rights can be modified or abrogated only by treaty; and that, therefore, until the proposed convention has been signed and has been ratified by the President, by and with the advice and consent of the Senate, the executive authority of this Government would be unable to accede to any proposal of a nature similar to that suggested by the Colonial Office.

The Department desires that the Embassy bring the foregoing informally to the attention of the Foreign Office, at which time it might be well to add that the Department is unable to perceive that the situation as regards the status of American nationals in Iraq is likely to be any more difficult between the signing of the proposed treaty and the exchange of ratifications thereof than it has been since the detachment of Iraq from the former Ottoman Empire.

I am [etc.]

For the Secretary of State:

W. R. CASTLE, Jr.

⁷⁴ *Foreign Relations*, 1924, vol. II, p. 212.

⁷⁵ See Department of State, Near Eastern Series, No. 1, pp. 59 and 96 ff. Additional correspondence related to documents 29-32 is printed in *Foreign Relations*, 1925, vol. II, pp. 217 ff.

⁷⁶ Miller, *Treaties*, vol. 3, p. 541.

890g.5123/-

The Consul at Baghdad (Randolph) to the Secretary of State

No. 524

BAGHDAD, July 1, 1927.

[Received August 17.]

SIR: I have the honor to refer to the Iraq Income Tax Law 1927, the text of which was published on pages 195-209 of Iraq Government Gazette No. 23 dated 4th June, 1927 (on file in the Library of the Department of State), and to enclose herewith three copies of the said "Iraq Income Tax Law 1927" printed in booklet form."

The Hills Brothers Company, an American firm, with head offices at 375 Washington Street, New York City, and a large office and date farm at Basra, Iraq, have written me from their Basra office as follows:

"Bussorah, Persian Gulf
Ref. L-B-547, 28th June 1927.

The American Consul
Bagdad.

Dear Sir:

As we believe that the government of the United States of America does not recognize that of Iraq, we beg to enquire if we, as an American Company, have the authority of the United States Government to pay taxes under the above mentioned law.

Yours very truly

The Hills Brothers Company
Per E. P. Southby."

Other American firms with offices and businesses in Iraq are asking me similar questions.

The leading American companies in this consular district are as follows:

The Hills Brothers Company of Basra, date exporters. This company also has an experimental date farm where an attempt is being made to improve the quality and varieties of dates and also the methods and practices of packing dates for export. The said experimental farm probably represents a large loss to the company each year. Finally Hills Brothers Company are agents for the Buick automobile, the Goodyear automobile tire and other American manufactures but are prepared to give up all such agencies if necessary to avoid exorbitant income tax difficulties.

Mac Andrews & Forbes Company, an American firm, with a large branch in Basra and an office in Bagdad. The business of this firm is the buying of licorice root for shipment to America. The company also holds agencies for one or two American products which

" Not reprinted.

are sold in Iraq but which have comparatively speaking no great importance for the company.

Berth Levi & Co. (of Chicago and New York) an American company maintaining a representative and office here for the purpose of buying sheep casings (intestines) for shipment to America.

The Oppenheimer Casing Company (of Chicago) maintaining a representative and office here for the buying of sheep casings (intestines) for shipment to America.

The Singer Sewing Machine Company, which maintains many offices in Iraq where Singer Sewing machines are sold.

As the last named firm sells its machines in Iraq and makes profits out of its Iraq customers there does not appear to be any grounds on which to base claims for exemption from the Iraq income tax so far as ordinary justice goes, unless American extraterritorial rights under our Treaty of 1830 with the Ottoman Empire assure Americans such rights. The same can apparently be said about the business done by Mac Andrews & Forbes Company and the Hills Brothers Company in connection with the agencies they hold for different American products.

Will the Department kindly inform me what attitude American firms in Iraq should assume toward the Iraq Income Tax Law 1927 in connection with the above referred to business done by them?

Also, will the Department kindly inform me what attitude the above mentioned date, licorice root and casing firms should assume toward the Iraq Government if a demand is made under the said law for the payment of tax on their annual turnover. As these date, licorice root and casing firms buy only for shipment to their principals in America and sell in this country none of the stocks bought, the local offices make no profits and their books show no profits in connection with date, licorice root and casing purchases.

Will the Department kindly inform me what attitude American firms should assume toward the Iraq Income Tax Law 1927 in connection with the filing of declarations as to income and turnover in case an attempt is made to collect a tax from such American firms on their turnover?

Finally, May I request to be instructed as to whether it is the policy of the Department to demand for American companies exemptions in this connection which British and other foreign companies do not demand and are not accorded?

A telegraphic reply, although not absolutely necessary, would be helpful.

As regards American missionaries and their hospitals and schools in Iraq, reference is made to article 8 (*d*) of the said Law which apparently provides for exemptions in such cases.

As regards the income of the American Consul at Bagdad, reference is made to Article 8 (*e*) of the said Law which provides for exemptions in such cases.

I have [etc.]

JOHN RANDOLPH

702.0690g/4

The Consul at Bagdad (Randolph) to the Secretary of State

No. 548

BAGHDAD, *September 26, 1927.*

[Received October 21.]

SIR: I have the honor to refer to my report dated September 26, 1927,⁷⁸ entitled: Abrogation of Capitulations in Iraq Replaced by Anglo-Iraq Judicial Agreement, and also to the general question of American Capitulatory Rights in this country and to report as follows:

Until recently, as a result of verbal negotiations and arrangements made before my arrival in Bagdad—some five years ago (no written records on file), the American Consul at Bagdad has not been considered amenable to the Iraq stamp tax which requires, among other things, the canceling of a two anna (about 5 cent) stamp on each bank check drawn or ordinary receipt given.

Some weeks ago the Bagdad branch of the Imperial Bank of Persia refused to cash a draft drawn payable to the order of the "American Consul" unless bearing a canceled Iraq stamp for two annas as required by the stamp law, explaining that their examination of the stamp law had failed to reveal any provision exempting Consuls from compliance with the law's provisions. I took the question up informally with C. Empson, Esquire, Consular Secretary to His Excellency the High Commissioner for Iraq, who later informed me unofficially that the High Commissioner had stated that he canceled a stamp on each of his checks and that the American and other Consuls should do likewise. Mr. Empson added that his reply was unofficial but that if I took up the matter officially I would undoubtedly get the same reply.

To-day I am informed by the Ottoman Bank that the banks in Bagdad have been circularized by the High Commission informing them that foreign Consuls are to cancel the usual stamp on checks drawn.

I have [etc.]

JOHN RANDOLPH

⁷⁸ Not printed.

890g.5123/- : Telegram

The Secretary of State to the Consul at Baghdad (Randolph)

WASHINGTON, October 1, 1927—6 p. m.

Your despatch 524, July 1, 1927. Department assumes you and British authorities are familiar with the legal aspects of this question. This Government's position must continue to be that until a treaty agreement providing to the contrary enters into force the collection of a tax of this nature from American firms is in contravention of American treaty rights.

London Embassy reports that the pending American-British-Iraq treaty is under discussion between Iraq Government and British Colonial Office and that an early settlement is probable.

In the interim this Government would be pleased to consider any request for its consent to levying of tax on American nationals. In other cases in extraterritorial countries it has acceded to such requests, e. g. in agreeing, upon the request of the French Government, to the collection from Americans of new duties in Syria prior to the entry into force of the American-French-Syrian Mandate Convention.⁷⁹

You may in your discretion bring the foregoing to the attention of interested American firms adding, however, that should they, for reasons of business policy, desire to pay the tax this Government has no objection to such individual action.

KELLOGG

702.0690g/4

The Secretary of State to the Consul at Baghdad (Randolph)

WASHINGTON, November 8, 1927.

SIR: The Department acknowledges the receipt of your despatch No. 548 of September 26, 1927, respecting the Iraq stamp law.

The Department's position with respect to your paying the stamp tax is identical with that stated in its telegram to you of October 1, 6 P. M., regarding the payment by American nationals of the income tax levied by the Iraq Government. The legal principle on which the Department's position is based is the same in both cases.

By virtue of the treaty concluded between the United States and the Ottoman Empire, May 7, 1830, the United States obtained certain rights in the territory of the Ottoman Empire, of which Iraq was at that time a part. The Department does not consider that the attempted abrogation of the Capitulations by Turkey in 1914, nor the separation of Iraq from Turkey, as a result of the late war, has impaired the rights obtained under the above mentioned treaty. The

⁷⁹ Signed Apr. 4, 1924. *Foreign Relations*, 1924, vol. I, p. 741.

rights thus obtained will persist until superseded. The enjoyment of these rights may be suspended by the conclusion of a treaty such as that now under negotiation between the United States, Great Britain and Iraq, or in certain specific matters, such as taxes, when this Government has been requested to make certain laws applicable to American citizens and has given its consent thereto. In this connection see paragraph 3 of the Department's telegram of October 1, above mentioned.

It is the opinion of the Department that the position taken by the British Adviser, as quoted in your report of September 26, 1927, entitled "Abrogation of Capitulations in Iraq",⁸⁰ is at variance with the position taken by the British Government at the Lausanne Conference and during the negotiation of the American-British Palestine Mandate Convention. In this latter connection, your attention is particularly called to documents 29-32 of the Department's publication entitled "Mandate for Palestine".

The Department desires that you discuss this question again with the appropriate authorities at Baghdad, emphasizing the fact that requests for this Government's consent to the levying of new taxes on American nationals in territories under "A" mandate have always been sympathetically considered, but that until such consent is given this Government cannot but maintain that the collection of such taxes from American nationals is a violation of American treaty rights.

If, after discussing the matter with the appropriate authorities, you care to pay the stamp tax, the Department has no objection provided that when so doing, you recall in writing to the attention of the appropriate authorities the fact that you have acquainted them with the views of your Government and reserve the right, if and when your Government so directs, to claim full reimbursement for any amounts so expended.

I am [etc.]

For the Secretary of State:

W. R. CASTLE, Jr.

890g.5123/1

The Consul at Baghdad (Randolph) to the Secretary of State

No. 568

BAGHDAD, November 10, 1927.

[Received December 1.]

SIR: I have the honor to refer to my despatch No. 524 of July 1, 1927, and the Department's telegram of October 1, 6 P. M., 1927, concerning the American capitulatory rights in Iraq.

⁸⁰ Not printed.

In this connection I have the honor to refer also to my report of September 26, 1927, entitled: "Abrogation of Capitulations in Iraq Replaced by Anglo-Iraq Judicial Agreement,"⁸¹ which discusses in some detail the attitude of the local British and Iraq officials toward the Capitulations.

After the receipt of the Department's above mentioned telegram of October 1, 6 P. M., 1927, I took up the matter verbally with C. Empson, Esquire, Consular Secretary to His Excellency the High Commissioner, calling attention to the probable conclusion soon of a convention between Iraq and the United States and protesting meanwhile against the application of the Iraq Income Tax Law to American companies in Iraq. Mr. Empson at first tried to argue that there are no provisions in the Iraq Income Tax Law under which American companies can claim freedom from this tax. After consultation with one of the other secretaries Mr. Empson asked if he might have a few days in order to place the matter before the Acting High Commissioner.

On 10th Mr. Empson telephoned me that the Acting High Commissioner had referred the question to London and that a reply had been received, stating that the conclusion of a convention between the United States and Iraq was expected soon and instructing the High Commissioner to endeavor to persuade the Iraq Government not to apply the Iraq Income Tax Law to American companies until the conclusion of the said convention.

I have [etc.]

JOHN RANDOLPH

CONTINUED NEGOTIATIONS TO ENSURE RECOGNITION OF THE PRINCIPLE OF THE OPEN DOOR IN THE TURKISH PETROLEUM COMPANY'S CONCESSION IN IRAQ⁸²

890g.63G3 T 84/271

The Associate General Counsel of the Standard Oil Company of New Jersey (Guy Wellman) to the Secretary of State

NEW YORK, April 1, 1927.

[Received April 11 (?).]

Re: Iraq Petroleum Company, Ltd.

(Formerly, Turkish Petroleum Company, Ltd.)

SIR: Since our last communication or conference on behalf of the American Group with the Department on this matter there has been practically no progress made toward an agreed basis of participation by the American Group until within the last few days. The difficulty heretofore has been to arrive at any agreement with Mr. C. S. Gulbenkian⁸³ under which his shares could be acquired and

⁸¹ Not printed.

⁸² Continued from *Foreign Relations*, 1926, vol. II, p. 362-370.

⁸³ Naturalized British subject, a minority stockholder in the Turkish Petroleum Company, Ltd.

the so-called working agreement put into effect. In this connection, the American Group, despairing of reaching any agreement with Mr. Gulbenkian, reluctantly offered to the Royal Dutch, Anglo-Persian and French Groups to take up its participation in the Iraq Petroleum Company on a basis of 23¾% (one-quarter of 95%, leaving Mr. Gulbenkian his 5% participation) without the immediate and effective adoption of the working agreement, insofar as its provisions might conflict with Mr. Gulbenkian's interest as a beneficial shareholder, but with the collateral agreement that so soon as the working agreement could be put into effect through purchase of Mr. Gulbenkian's shares, or with his consent, the other groups should agree that this should be done. This attitude of the American Group was communicated, through its London Solicitor, Mr. Montagu Piesse, to the other three groups on February 22nd last.

The American Group was advised by Colonel Mercier, of the French Group, on the 25th of that month that the French Group could obtain immediately Mr. Gulbenkian's acceptance of the working agreement on the following terms:

First: Mr. Gulbenkian, like the French Group, wants the other Iraq Petroleum Company shareholders to respect the informal agreements made between the Turkish Petroleum Company and the Deutsche Bank on October 19, 1912; between that company and the National Bank of Turkey on October 22, 1912;⁸⁴ and between that company and the Anglo-Saxon Petroleum Company, Limited, on October 23, 1912,⁸⁴ (copies of which are enclosed); and also the so-called Foreign Office Agreement of March 19, 1914, (of which a copy is also enclosed). The portion [of] these agreements in question is the self-denying ordinance embraced in the letters and in Article 10 of the last-named agreement.

Second: Mr. Gulbenkian wants a director in the Iraq Petroleum Company and its associated companies.

Third: He is willing to sign the working agreement with an arrangement for purchase of his share of the crude oil to be received under the working agreement on his 5% beneficial interest.

Fourth: He is to carry his financial interest and share in any financial benefits the same as the other shareholders.

One of the shareholding groups in the Iraq Petroleum Company had previously taken the position that this self-denying covenant was no longer effective. Accordingly, the corporation of the French Group, the *Compagnie Française des Pétroles*, brought two proceedings in the British Courts against the other shareholders of the Iraq Petroleum Company to have these agreements of 1912 and 1914 above referred to, so far as they relate to the production and manufacture of crude oil through the Turkish Petroleum Company only, declared effective and binding.

⁸⁴ See footnote 87, p. 820.

With this situation confronting it, the American Group, at a meeting held on March 9th, authorized Mr. Piesse to discuss the following basis for its participation:

First: Leave status of the self-denying covenants to judicial determination or agreed settlement of the controversy on condition that all groups and Mr. Gulbenkian or none are bound, and that the self-denying covenant does not apply to outside areas under Article 6 of the Iraq Convention.

Second: All the groups and Mr. Gulbenkian are to sign the working agreement.

Third: Mr. Gulbenkian is to retain and finance his 5% beneficial share interest and receive 5% of the divisible crude oil and financial benefits on the same terms pro-rata as the groups.

Fourth: The groups will arrange to purchase Mr. Gulbenkian's oil on some adequate price basis, or at his option he may dispose of it otherwise during each term of 10 years that he so elects.

Fifth: All voting rights to be held by the four groups.

This proposal was discussed informally by Mr. Piesse with representatives of the Anglo-Persian and Royal Dutch-Shell Groups, and the terms were acceptable to them. Thereupon, Sir John Cadman, Chairman of the Board of the Anglo-Persian Oil Company, Ltd., and Mr. Piesse went to Paris a few days ago and discussed with the French Group and Mr. Gulbenkian the whole subject of the American Group's participation in the light of the existing circumstances. Out of that conference there comes an offer, in principle, for a 23¾% share participation in the Iraq Petroleum Company by the American Group, in which the Royal Dutch, Anglo-Persian and French Groups concur, on condition that the self-denying covenant of the 1912 and 1914 agreements shall be recognized by all shareholders of the Iraq Petroleum Company, and that in effect it covers not only the former Ottoman Empire, but also the areas which may be leased to such shareholders by the Iraq Government under Article 6 of the convention between the Turkish Petroleum Company, Limited, and the Government of Iraq, of March 14, 1925.⁸⁵ Thus any areas which any of the shareholders of the Iraq Petroleum Company may obtain under the operation of the so-called open door plan as embodied in this Article 6, would be operated for joint interest of all its shareholders who desire to take up their interest through either the Iraq Petroleum Company or a subsidiary formed for the purpose. The other details of this proposal to the American Group are generally within the terms of the one which it submitted on March 9th, above outlined, or are of a purely business character with which the Department need not be burdened.

⁸⁵ Turkish Petroleum Company, Ltd., *Convention With the Government of Iraq, Made the 14th Day of March, 1925* ([London,] Blundell, Taylor & Co. [1925]).

The immediate purpose, therefore, in writing the Department at this time and at this length, is to post it generally as to the existing situation, and particularly to point out that it is apparently possible for the American Group now to take up its participation in the Iraq Petroleum Company, with effective, present, adoption of the working agreement, provided the Department has no objection to this lately-developed feature, regarding the self-denying ordinance. On this point it is the writer's thought that, if the American Group should take up its share participation under the condition of acceptance by it of the self-denying ordinance, there would not result any modification of the so-called open door plan adopted by the Iraq Petroleum Company under Article 6 of the Iraq Convention, because the plan would still be operative so far as all nationals, including American nationals, are concerned in respect to their right to submit bids for tracts or areas offered for sublease under that Article. The only effect of the acceptance of this condition by the American Group would be that its bids for outside areas, and the development and operation of any such that may be secured on its bids, would be for the account of any shareholders of the Iraq Petroleum Company, including Mr. Gulbenkian, who might desire to participate financially in such areas.

We desire to call the attention of the Department to the fact that in the previous consideration with the Department of the possible participation of the American Group as a shareholder in the Iraq Petroleum Company under the so-called open door plan, it has been understood that the American Group will be jointly associated with the other three groups with respect to the operation of the twenty-four areas to be selected by the Iraq Petroleum Company under Article 5 of the Iraq Convention, and also of any other areas that might fall to the Iraq Petroleum Company under the terms of the convention through failure of bidders for areas offered for sale. Thus the constituent members of the American Group might have acquired other areas for individual account and operated them as such. Under the pending proposal, including the self-denying ordinance, the American Group and its constituent members would be associated with the three foreign groups and Mr. Gulbenkian in the joint operation of all areas available for operation by the Iraq Petroleum Company under this convention, and also such other areas under the Iraq Convention which the American Group and its constituent members, and [the] other groups [of the Iraq Petroleum Company] as well, might acquire through public offering. This joint operation would relate also to the "production and manufacture" of crude oil in the former Ottoman Empire, as prescribed by the self-denying ordinance in the agreements of 1912 and 1914.

This will confirm the telephone explanation to Mr. Wadsworth this morning of this situation, and our desire to receive, if possible, from the Department for use at a meeting of the American Group now called for next Tuesday afternoon, an expression as to whether or not the Department has any objection to a share participation by the American Group in the Iraq Petroleum Company which would involve, so far as the open door plan under Article 6 of the Iraq Convention is concerned, an acceptance by the American Group on its sole behalf of the self-denying ordinance of the agreements of 1912 and 1914 above referred to, along with all the other shareholders of the Iraq Petroleum Company.⁸⁶

Respectfully yours,

GUY WELLMAN

[Enclosure 1]

*The Deutsche Bank to the Turkish Petroleum Company, Ltd.,
London*⁸⁷

BERLIN, October 19, 1912.

DEAR SIR: We hereby undertake that we will not directly or indirectly be interested in the production or manufacture of crude oil in the Turkish Empire in Europe and Asia apart from our interest in the Turkish Petroleum Company Ltd. It will however be understood that this obligation will in no case interfere with our ordinary banking transactions.

Furthermore it will be understood that all parties participating in the Company mentioned will be at liberty to import crude oil into Turkey and refine it there so long as the said Company has not found oil in Turkey in workable quantities, but that, if the Company begins working oil, it will then have the option of buying any refineries established there by any of the parties at cost price less amortisation.

Yours faithfully,

DEUTSCHE BANK

⁸⁶ A notation in ink at the close of this letter reads:

"Note: (1) At Mr. Harrison's suggestion, 4/6/27, I telephoned Mr. Wellman and asked if the addition of the above made pen inserts, 'and' ['the'] and 'of the Iraq Petroleum Company', did not more accurately render the meaning of the phrase in question. He replied in the affirmative and agreed to the change in text.

(2) In the telephone conversation referred to in the last paragraph of the above letter, I asked Mr. Wellman whether he was certain that the name of the Turkish Petroleum Co., Ltd., had actually been changed to 'Iraq Petroleum Co., Ltd.' He replied that such was the information he had received from Mr. Piesse, the American Group's London solicitor. Today he stated that he had not been able definitely to verify his former statement and he asked that the Dept's reply take note of this fact.

George Wadsworth
NE—4/6/27."

⁸⁷ Similar letters, dated, respectively, Oct. 22 and Oct. 23, 1912 (neither printed), were sent to the Turkish Petroleum Company, Ltd., by the National Bank of Turkey and the Anglo-Saxon Petroleum Company, Ltd.

[Enclosure 2]

Foreign Office Agreement, 1914

Arrangements for Fusion of Interests in Turkish Petroleum Concessions of the d'Arcy Group and of the Turkish Petroleum Company

It is agreed that the interests shall be divided as follows:

Fifty per cent to the d'Arcy group,
Twenty-five per cent to the Deutsche Bank,
Twenty-five per cent to the Anglo-Saxon Petroleum Company,

and that, in order to carry out this division,

1. The shares in the Turkish Petroleum Company now held by The National Bank of Turkey shall be transferred in equal moieties to the Deutsche Bank and the Anglo-Saxon Petroleum Company.

2. The capital of the Turkish Petroleum Company shall be increased to £160,000 by the creation of 80,000 new shares of £1 each of the same class as those now existing.

3. These 80,000 new shares shall be allotted to the d'Arcy group on terms to be agreed upon between the parties.

4. The Board of the Company shall consist of eight members, of whom four will be nominated by the d'Arcy group, two by the Deutsche Bank, and two by the Anglo-Saxon Company.

5. The capital of the Turkish Petroleum Company shall be employed only in exploring, testing, and proving oil fields, a separate public company or companies being formed to work any field or fields the examination of which has proved satisfactory.

6. Such working company or companies shall issue to the Turkish Petroleum Company fully paid ordinary shares as consideration for the properties to be acquired; such ordinary shares shall carry full control of the working company or companies, which control shall in no circumstances be parted with by the Turkish Petroleum Company.

7. The working capital required by such working company or companies shall be raised by means of preference shares and (or) debentures which shall be offered to the public to such extent as the members of the Turkish Petroleum Company or any one of them shall elect not to subscribe for themselves.

8. The alterations in the memorandum and (or) articles of association of the Turkish Petroleum Company necessary to carry out the above conditions shall be made forthwith.

9. Mr. C. S. Gulbenkian shall be entitled to a beneficiary five per cent interest without voting rights in the Turkish Petroleum Company, this five per cent being contributed equally by the d'Arcy group and the Anglo-Saxon Company out of their respective holdings. The shares representing Mr. Gulbenkian's interest shall be regis-

tered in the names of nominees of the d'Arcy group and of the Anglo-Saxon Company, and shall be held by them, but undertakings shall be exchanged between these parties whereby

- (1) Mr. Gulbenkian undertakes to pay the calls on the shares, and
- (2) The d'Arcy group and the Anglo-Saxon Company undertake that Mr. Gulbenkian shall be entitled to all financial benefits of the shares.
- (3) If Mr. Gulbenkian shall desire to dispose of this interest, and also in the event of his death, the d'Arcy group and the Anglo-Saxon Company shall have the option of purchasing the interests standing in their names as defined in Article 36 (b) of the articles of association of the Turkish Petroleum Company.

10. The three groups participating in the Turkish Petroleum Company shall give undertakings on their own behalf and on behalf of the companies associated with them not to be interested directly or indirectly in the production or manufacture of crude oil in the Ottoman Empire in Europe and Asia, except in that part which is under the administration of the Egyptian Government or of the Sheikh of Koweit, or in the "transferred territories" on the Turco-Persian frontier, otherwise than through the Turkish Petroleum Company.

For the Imperial German Government

R. VON KÜHLMANN

For His Britannic Majesty's Government

EYRE A. CROWE

For the National Bank of Turkey

H. BABINGTON SMITH

For the Anglo-Saxon Petroleum Company, Ltd.

H. DETERDING

WALTER H. SAMUEL

For the Deutsche Bank

C. BERGMANN

For the d'Arcy Group

C. GREENWAY

H. S. BARNES

LONDON, 19 March, 1914.

890g.6363 T 84/271

The Secretary of State to the Associate General Counsel of the Standard Oil Company of New Jersey (Guy Wellman)

WASHINGTON, April 9, 1927.

SIR: The Department has received and read with interest your letter of April 1, 1927, informing it of the American Group's recent

negotiations with the stockholders of the Iraq Petroleum Company, Ltd. and of the result thereof. The Department understands from your letter, briefly, that the American Group is offered and, providing the Department raises no objection, will take up a 23¾% stock participation in the Company, the activities of which will be limited by the so-called "working agreement," it being at the same time provided that the present shareholders in the Company and the American Group, if and when it becomes a shareholder, and their constituent members, if any, will be bound by the self-denying provisions of the 1912 and 1914 agreements of which copies were enclosed with your letter under acknowledgment. The Department notes also your statement that the effect of this last proviso, if adopted, would be to associate the American Group and its constituent members "with the three foreign groups and Mr. Gulbenkian in the joint operation of all areas available for operation by the Iraq Petroleum Company under this convention, and also such other areas under the Iraq Convention which the American Group and its constituent members, and the other groups of the Iraq Petroleum Company as well, might acquire through public offering." The Department further notes that "there would not result any modification of the so-called open door plan adopted by the Iraq Petroleum Company under Article 6 of the Iraq Convention, because the plan would still be operative so far as all nationals, including American nationals, are concerned in respect to their right to submit bids for tracts or areas offered for sublease under that Article."

In reply, I desire to express the Department's appreciation of your courtesy in thus bringing to its attention the most recent developments in this matter and to inform you that in the light of the information submitted it perceives no objection on the grounds of policy to the American Group taking up the proffered share participation in the Iraq Petroleum Company, Ltd., on the basis and understandings thus recited. As you are aware, the Department does not of course in any way pass upon the business elements of the negotiations.

I am pleased to add, in accordance with your oral request of April 6, 1927, that, if the name of the Turkish Petroleum Company, Limited, has not been changed to "Iraq Petroleum Company, Limited," you may make the necessary corrections in the foregoing paragraphs, informing the Department accordingly.

I am [etc.]

For the Secretary of State:

WM. R. CASTLE, Jr.

Assistant Secretary

[In April 1928 Mr. Wellman submitted to the Department the final (March 30, 1928) print of the proposed agreement between the Turkish Petroleum Company and its respective shareholders, and also the certificate of incorporation (dated February 3, 1928) and by-laws of the Near East Development Corporation, the American Group. In a letter to Mr. Wellman of April 16, 1928 (File No. 890g.6363 T 84/320), the Chief of the Division of Near Eastern Affairs (Shaw) stated:

"The Department has taken note of the contents of these two documents as well as of the Convention of March 14, 1925, between the Turkish Petroleum Company and the Government of Iraq.

: "With reference to your inquiry on April 10, 1928, concerning the attitude of the Department of State, I take pleasure in informing you that, in the light of the information at hand, the Department considers that the arrangements contemplated in view of the special circumstances affecting the situation are consistent with the principles underlying the open door policy of the Government of the United States."]

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